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Presidential Documents

Title 3—

The President

Proclamation 7552 of May 2, 2002

National Charter Schools Week, 2002

By the President of the United States of America

A Proclamation

Over a decade ago in Minnesota, a handful of educators envisioned a new kind of educational institution that would provide an alternative for children trapped in under-performing public schools. Their philosophy for a ''charter school'' was straightforward and powerful: provide parents the option to send their children to innovative public schools that combine flexibility and autonomy with a guarantee to raise student achievement.

Today, we recognize the important successes of the charter school experiment. Nearly 2,400 charter schools now exist across our Nation. Thanks to bipartisan support at the local, State, and Federal level, more than a half-million children have attended these public schools and obtained a better education.

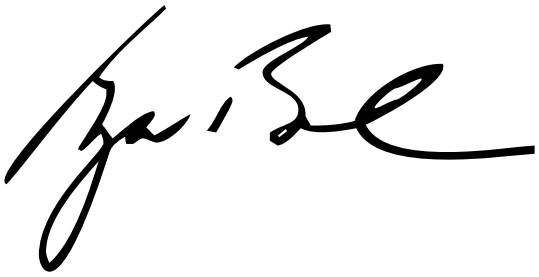
In reading, math, science, special education, early childhood education, and other areas, charter schools have implemented innovative programs that produce results. Charter school principals and teachers have the freedom to develop classroom techniques that meet their students' unique needs, and parents appreciate the ability to have direct input into their children's educational progress. Charter school administrators are accountable to students, parents, and community leaders, and they know that if their school fails to meet expectations, it must either improve or close.

The effects of charter schools extend beyond the schoolhouse walls. Wherever charter schools are clustered together, we see traditional schools reevaluate their methods and programs. At this basic level, charter schools help stimulate community debate and inspire educational excellence.

Accountability, flexibility, expanded choices, and a focus on methods that work are all important elements in the landmark, bipartisan, No Child Left Behind Act of 2001, which I signed into law in January. This legislation authorizes a new program, the Charter School Facility Demonstration Project, which provides important seed funding for charter school infrastructure and construction needs. It also continues the Charter School Grants program that supports planning and development of new public charter schools. Together these programs provide valuable tools to American education. Now we must work together to implement this new legislation in all our communities so no child is left behind.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 28 through May 4, 2002, as National Charter Schools Week. I call on parents of charter school children to share their success stories with others so that all Americans may learn more about charter schools and their important work. I commend the States with charter schools.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 02–11486
Filed 5–6–02; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7553 of May 3, 2002

To Restore Nondiscriminatory Trade Treatment (Normal Trade Relations Treatment) to the Products of Afghanistan

By the President of the United States of America

A Proclamation

1. Section 118(a)(1) of Public Law 99–190, 99 Stat. 1319, authorized the President to deny nondiscriminatory trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty in column 2 of the Harmonized Tariff Schedule of the United States (HTS).

2. Presidential Proclamation 5437 of January 31, 1986, modified the HTS so as to deny nondiscriminatory trade treatment to the products of Afghanistan.

3. Restoration of nondiscriminatory trade treatment will support U.S. efforts to normalize relations with Afghanistan and facilitate increased trade with the United States, which could contribute to economic growth and assist Afghanistan in rebuilding its economy.

4. Pursuant to section 118(c)(1) of Public Law 99–190, I have determined that it is appropriate to restore nondiscriminatory trade treatment to the products of Afghanistan and thereby cause such products to be subject to the applicable rate of duty in column 1 of the HTS.

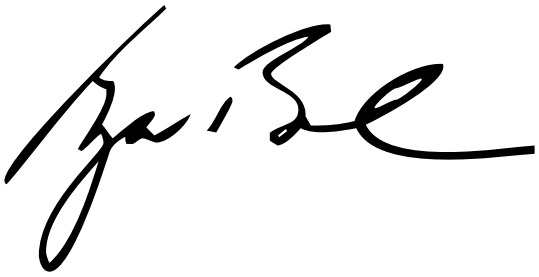
NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 118 of Public Law 99–190, and section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), do hereby proclaim that:

(1) Nondiscriminatory trade treatment (normal trade relations treatment) shall be restored to the products of Afghanistan;

(2) General note 3(b) of the HTS is modified to exclude Afghanistan; and

(3) The restoration of nondiscriminatory trade treatment and the modification to general note 3(b) of the HTS shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 02–11487
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Billing code 3195–01–P

Presidential Documents

Proclamation 7554 of May 3, 2002

To Extend Duty-Free Treatment for Certain Agricultural Products of Israel

By the President of the United States of America

A Proclamation

1. On April 22, 1985, the United States entered into the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (the ''FTA''), which the Congress approved in the United States-Israel Free Trade Area Implementation Act of 1985 (the ''FTA Act'') (19 U.S.C. 2112 Note).

2. On November 4, 1996, the United States entered into an agreement with Israel concerning certain aspects of trade in agricultural products, effective from December 4, 1996, through December 31, 2001 (the ''1996 Agreement''), in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to agricultural trade with Israel while acknowledging differing interpretations regarding the meaning of certain rights and obligations in the FTA as to such trade.

3. Section 4(b) of the FTA Act provides that, whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the FTA, the President may proclaim such withdrawal, suspension, modification, or continuance of any duty, or such continuance of existing duty-free or excise treatment, or such additional duties as the President determines to be required or appropriate to carry out the FTA.

4. Pursuant to section 4(b) of the FTA Act, President Clinton issued Proclamation 6962 of December 2, 1996, to provide through the close of December 31, 2001, access into the United States customs territory for specified quantities of certain agricultural products of Israel free of duty or certain fees or other import charges, consistent with the 1996 Agreement.

5. On December 31, 2001, the United States entered into an agreement with Israel to extend the 1996 Agreement through December 31, 2002, in order to allow for additional time to negotiate a successor arrangement to the 1996 Agreement.

6. Pursuant to section 4(b) of the FTA Act, I have determined that it is necessary, in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the FTA, to provide through the close of December 31, 2002, duty-free treatment for specified quantities of certain agricultural products of Israel.

7. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) (the ''Trade Act'') authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the relevant provisions of that act, and of other acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 4 of the FTA Act and section 604 of the Trade Act, do hereby proclaim:

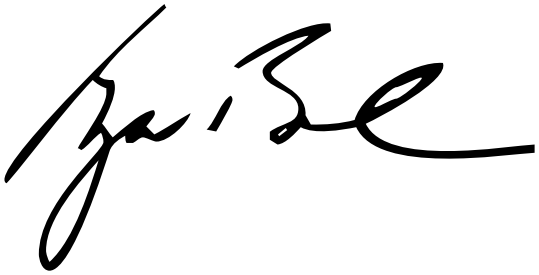
(1) In order to implement U.S. commitments under the 1996 Agreement as extended through December 31, 2002, and, in particular, to provide duty-free treatment for specified quantities of certain agricultural products of Israel, subchapter VIII of chapter 99 of the HTS is modified as provided in the Annex to this proclamation.

(2) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(3)(a) The modifications to the HTS made by the Annex to this proclamation shall be effective with respect to goods that are the product of Israel and are entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, including entries for which the liquidation of duties has not become final under section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514).

(b) The provisions of subchapter VIII of chapter 99 of the HTS, as modified by the Annex to this proclamation, shall continue in effect through the close of December 31, 2002.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of May, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



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Modifications to Subchapter VIII of Chapter 99 of the Harmonized Tariff Schedule of the United States

Effective with respect to goods that are the product of Israel and are entered, or withdrawn from warehouse for consumption, on or after January 1, 2002, and through the close of December 31, 2002, subchapter VIII of chapter 99 of the HTS is modified as provided herein:

1. U.S. note 1 to such subchapter is modified by striking ''December 31, 2001,'' and by inserting in lieu thereof ''December 31, 2002,''.

2. U.S. note 3 is modified by inserting at the end of the table therein the following additional applicable time period and quantity: ''Calendar year 2002 . . . . . 383,000''.

3. U.S. note 4 is modified by inserting at the end of the table therein the following additional applicable time period and quantity: ''Calendar year 2002 . . . . . 1,160,000''.

4. U.S. note 5 is modified by inserting at the end of the table therein the following additional applicable time period and quantity: ''Calendar year 2002 . . . . . 1,279,000''.

5. U.S. note 6 is modified by inserting at the end of the table therein the following additional applicable time period and quantity: ''Calendar year 2002 . . . . . 116,000''.

6. U.S. note 7 is modified by inserting at the end of the table therein the following additional applicable time period and quantity: ''Calendar year 2002 . . . . . 405,317''.

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Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–01–AD; Amendment 39–12744; AD 2002–09–11]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 2001–05–03, which applies to certain SOCATA—Groupe AEROSPATIALE (Socata) Model TBM 700 airplanes. AD 2001–05–03 currently requires you to apply Loctite on attaching bolt/screw threads of inboard, central, and outboard carriages; increase tightening torques of associated hardware; and replace central carriage attaching bolts. The French airworthiness authority has determined that certain service information referenced in AD 2001–05–03 be removed and additional inspection of the flap carriage attaching bolts, screws, and barrel nut be included. Therefore, this AD will retain the requirements of the current AD and will add the information communicated by the French airworthiness authority. The actions specified by this AD are intended to prevent the flap attaching bolts/screws from becoming loose and separating from the airplane, which could cause rough or irregular control. Such rough or irregular control could lead to the loss of control of the airplane.

DATES: This AD becomes effective on June 20, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of June 20, 2002.

ADDRESSES: You may get the service information referenced in this AD from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930–F65009 Tarbes Cedex, France; telephone: (33) (0)5.62.41.73.00; facsimile: (33) (0)5.62.41.76.54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; facsimile: (954) 964–4191. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE–01–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? Reports of occurrences on Socata Model TBM 700 airplanes where a screw of a flap attachment fitting was found partly unscrewed and another was missing caused us to issue AD 2001–05–03, Amendment 39–12139 (66 FR 14308, March 12, 2001). The occurrences were the result of flap vibration. AD 2001–05–03 requires the following on Socata Model TBM 700 airplanes:

—Apply Loctite on attaching bolt/screw threads of inboard, central, and outboard carriages;
—Increase tightening torques of associated hardware; and
—Replace central carriage attaching bolts.

Accomplishment of these actions is required in accordance with Socata Mandatory Service Bulletin SB 70–087 57, Amendment 1, dated November 2000, or Socata Mandatory Service Bulletin SB 70–087, dated September 2000.

What has happened since AD 2001–05–03 to initiate this action? The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified FAA of the need to change AD 2001–05–03. The DGAC reports the procedures in the original issue of Socata Mandatory Service Bulletin SB 70–087, dated September, 2000, do not correct the unsafe condition. The DGAC indicates that reference to this service information should be removed from the AD. In addition, the DGAC is requiring the barrel nut be inspected for correct installation, with corrective action as necessary, on certain Socata Model TBM 700 airplanes registered in France.

What is the potential impact if FAA took no action? This condition, if not corrected, could result in the flap attaching bolts/screws becoming loose and separating from the airplane, which could cause rough or irregular control. Such rough or irregular control could lead to the loss of control of the airplane.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Socata Model TBM 700 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 11, 2002 (67 FR 6207). The NPRM proposed to supersede AD 2001–05–03 with a new AD that would require you to:

—Inspect the flap carriage attaching bolts and screws for damage and replace as necessary;
—Apply Loctite on the attaching bolt and screw threads of inboard, central, and outboard carriages;
—Increase the tightening torques;
—Replace central carriage attaching bolts; and
—Inspect the barrel nut for correct positioning, and corrective action as necessary.

The NPRM also proposed to remove compliance in accordance with the procedures in Socata Mandatory Service Bulletin SB 70–087 57, dated September 2000.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all

available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 75 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes?

We estimate the following costs to accomplish the modifications:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	$10	$360 + $10 = $370	$370 × 75 = $27.750

The only difference between this AD and AD 2001–05–03 is the addition of the inspection of the flap carriage attachment bolts, screws, and barrel nut. The FAA has determined that the cost of this inspection is minimal and does not increase the cost impact over that already required by AD 2001–05–03.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–05–03, Amendment 39–12139 (66 FR 14308, March 12, 2001), and by adding a new AD to read as follows:

2002–09–11 SOCATA—Groupe Aerpspatiale: Amendment 39–12744; Docket No. 2002-CE–01-AD; Supersedes AD 2001–05–03, Amendment 39–12139.

(a) *What airplanes are affected by this AD?* This AD affects Model TBM 700 airplanes, serial numbers 1 through 164 and 166 through 173, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the flap attaching bolts/screws from becoming loose and separating from the airplane, which could cause rough or irregular control. Such rough or irregular control could lead to the loss of control of the airplane. 5

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

Actions	Compliance	Procedures
(1) Accomplish the following on the flap carriages: (i) Inspect the inboard and carriage attaching bolts and screws for peening and/or distortion, and replace screws and/or bolts, as necessary; (ii) Apply Loctite on the attaching bolt and screw threads of the inboard and the outboard carriages; (iii) Increase tightening torque of associated hardware; (iv) Apply a red paint line on the inboard and outboard carriages and the screw heads; (v) Inspect the central carriage barrel nut for correct positioning, remove, inspect, and replace, as necessary; (vi) Replace the central carriage attaching bolts with new bolts, part number (P/N) Z00.N5109337315 (or FAA-approved equivalent part); (vii) Apply Loctite on the attaching bolt threads of the central carriage; (viii) Increase tightening torque of associated hardware; and (ix) Apply a red paint line on the on the central carriage and on the bolt heads.	Within the next 100 hours time-in-service (TIS) after June 20, 2002 (the effective date of this AD), unless already accomplished. Socata Mandatory Service Bulletin SB 70–087 57 Amendment 1, dated November 2000, includes all procedures required in this AD. If yoy have already accomplished all procedures in the service bulletin, proceed to paragraph (s)(2) of this AD.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS in Socata Mandatory Service Bulliten SB 70–087, Amendment 1, dated November 2000, and the applicable maintenance manual.
(2) Inspect the alignment of the red paint line on the inboard, and central carriages to determine if the attaching screws and/or bolts have become loose.	At intervals not to exceed 100 hours TIS after compliance with the actions required in paragraph (d)(1) of this AD.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS in Socata Mandatory Service Bulletin SB 70–087 57, Amendment 1, dated November 2000, and the applicable maintenance manual.
(3) If any inspection required in paragraph (d)(2) of this AD reveals that the inboard, the outboard, and/or the central carriage attaching screws and/or bolts have become loose, accomplish the following: (i) Obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (f) of this AD; (ii) Incorporate this repair scheme; and (iii) Continue to repetitively inspect as required in paragraph (d)(2) of this AD, unless the repair scheme directs AD. differently.	Prior to further flight after the inspection in which the attaching screws and/or bolts are found loose.	In accordance with the repair scheme obtained from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD.
(4) Do not install any central carriage attaching bolts that are not P/N Z00.N5109337315 (or FAA-approved equivalent part).	As of April 27, 201 (the effective date of AD 2001–05–03).	Not Applicable.

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

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

(ii) The Manager, Standards Office, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standards Office, Small Airplane Directorate.

(2) Alternative methods of compliance approved in accordance with AD 2001–05–03, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with

Socata Mandatory Service Bulletin SB 70–087 57, Amendment 1, dated November 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 2001–05–03, Amendment 39–12139.

Note 2: The subject of this AD is addressed in French AD No. 2000–409(A) R1, dated September 29, 2001.

(j) *When does this amendment become effective?* This amendment becomes effective on June 20, 2002.

Issued in Kansas City, Missouri, on April 29, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–11215 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–13–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

RIN 2700–AC51

NASA Grant and Cooperative Agreement Handbook—Limitations on Incremental Funding and Deobligations on Grants, and Elimination of Delegation of Closeout of Grants and Cooperative Agreements to Office of Naval Research

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the NASA Grant and Cooperative Agreement Handbook to revise the threshold for incrementally funding grants and to establish dollar thresholds for incremental funding and funding deobligation actions under grants. These changes will further limit the number of grants eligible to be incrementally funded and the number of incremental funding and funding deobligation actions. Additionally, this final rule eliminates the possibility of delegating closeout of grants and cooperative agreements to the Office of Naval Research (ONR). That function will be retained by NASA.

EFFECTIVE DATE: May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Rita Svarcas, NASA Headquarters, Code HC, Washington, DC, (202) 358–0464, e-mail: *rsvarcas@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Currently, the Grant and Cooperative Agreement Handbook limits the incremental funding of grants. In spite of these restrictions, numerous incremental funding actions are being issued against grants. The high number of actions creates a workload burden for finance and procurement personnel in the Agency. This final rule further restricts the number of grants that can be incrementally funded by revising the dollar threshold that a grant must meet in order for it to be incrementally funded. An anticipated annual funding threshold of at least $100,000 is now specified in order for a grant to be incrementally funded. It also establishes a minimum dollar threshold of $25,000 that certain incremental funding and funding deobligation actions must meet.

Currently, section 1260.70 of the Grant and Cooperative Agreement Handbook states that NASA Centers will delegate both property administration and closeout of grants and cooperative agreements to ONR. Section 1260.77 discusses ONR tasks within the NASA closeout procedures, including certification that all required reports have been received and approved by the NASA technical officer. Both NASA and ONR were obtaining certifications. As a result, Grant Information Circular (GIC) 01–02 was issued on August 2, 2001. GIC 01–02 changed NASA's closeout policy by eliminating that specific closeout function from ONR's responsibilities. With the issuance of GIC 01–02, NASA Centers have started the process of bringing in-house the closeout function for grants and cooperative agreements. Eliminating the possibility of Centers delegating the closeout function to ONR assures that the duplication of effort (NASA and ONR) will end.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because the changes primarily affect internal procedures which will merely result in fewer, but larger dollar value, funding actions on grants.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose any new recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et. seq.

List of Subjects in 14 CFR Part 1260

Grant programs—science and technology.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 14 CFR part 1260 is amended as follows:

1. The authority citation for 14 CFR 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and OMB Circular A–110.

PART 1260—GRANTS AND COOPERATIVE AGREEMENT

2. In § 1260.11, revise paragraph (h) introductory text and add paragraphs (h)(3) and (h)(4) to read as follows:

§ 1260.11 Evaluation and selection.

* * * * *

(h) NASA reserves the right to either fully fund or incrementally fund grants based on fiscal law and program considerations. Grants with anticipated annual funding exceeding $100,000 may be funded for less than the amount stated in the proposal. On an exception basis, and with the concurrence of the installation comptroller, the procurement officer may allow individual grants with anticipated annual funding between $50,000 and $100,000 to be funded for less than the amount stated in the proposal. The procurement officer shall maintain a record of all such approvals during the fiscal year.

* * * * *

(3) Unless the action is necessary to fully fund a grant, incremental funding actions totaling less than $25,000 shall not be issued.

(4) Unless the action is necessary to close out a grant or to make a corrective accounting adjustment, funding actions to deobligate funds totaling less than $25,000 shall not be issued.

* * * * *

3. In § 1260.70, amend paragraph (a) introductory text, paragraphs (a)(3) and (a)(4), and paragraph (b) to read as follows:

§ 1260.70 Delegation of administration.

(a) In most cases, property administration of NASA grants and cooperative agreements will be delegated to the Office of Naval

Research (ONR). Other administration duties may be assigned as listed on NF 1674. Exceptions to this policy are:

* * * * *

(3) Grant officers may waive specific administration requirements (as listed on NF 1674) in exceptional circumstances for individual grants. Exceptions to administration duties that are normally delegated must be justified and approved in writing by the Grant Officer, and made part of the file.

(4) Waiver of delegation of property administration duties that are to be instituted by a center as a standard practice constitutes a deviation to this handbook, and requires approval in accordance with § 1260.7.

(b) Grant and cooperative agreement administration delegations will be made by use of NF 1674 (Exhibit F to subpart A of this part 1260). When administration duties have been assigned to ONR, the NF 1674, the award document, and the approved budget will be sent to ONR in a single package (electronically, when possible).

* * * * *

4. In § 1260.77, revise paragraphs (b), (c), (d) introductory text and (d)(1) through (3) to read as follows:

§ 1260.77 Closeout procedures.

* * * * *

(b) Those who are designated to receive NASA reports (except for CASI, which only acknowledges receipt) must provide certification to the NASA grant officer that the reports have been received and satisfactorily completed. Electronic certifications are acceptable. See §§ 1260.75 and 1260.171(a). The property certification should indicate that disposal of any remaining Government property has been made as directed and that NASA has been compensated for any residual inventory.

(c) When ONR has been delegated grant and cooperative agreement administration duties as listed on the NF 1674, and has completed its actions, the NASA grant officer is to receive from ONR all of the following:

(1) For notification of the completion of property administration duties, a DD Form 1593 Contract Administration Completion Record (or equivalent electronic notification), without supporting or backup documents, indicating property administration is complete.

(2) For other administration duties, an electronic notification confirming that all assigned administration duties have been completed is sufficient. Although a DD Form 1594 is not required, ONR may use this form if they choose.

(d) A grant is administratively complete and ready for closeout by NASA when:

(1) Property disposition has been completed.

(2) The grant officer has obtained from the NASA technical officer certifications that all reports have been received.

(3) When administration duties have been delegated to ONR, an electronic notification confirming the completion of all assigned administration duties has been received. Although not required, a DD Form 1594 may be used by ONR in lieu of the electronic notification.

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[FR Doc. 02–11167 Filed 5–6– 8:45am]

BILLING CODE 7510–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate and Robenidine Hydrochloride

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved single-ingredient bacitracin methylene disalicylate (BMD) and robenidine hydrochloride Type A medicated articles to make two-way combination Type C medicated broiler and fryer chicken feeds used for prevention of coccidiosis, and as an aid in the prevention or control of necrotic enteritis.

DATES: This rule is effective May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7584, e-mail: svaughn@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–154 that provides for use of BMD (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) BMD) and ROBENZ (30 g/lb robenidine hydrochloride) Type A medicated articles to make two-way combination Type C medicated feeds containing 30 g/ton robenidine hydrochloride and 50 or 100 to 200 g/ton BMD for use in broiler and fryer chickens.

The combination Type C medicated feeds containing 50 g/ton BMD are used for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. The combination Type C medicated feeds containing 100 to 200 g/ton BMD are used for prevention of coccidiosis caused *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and as an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin. NADA 141–154 is approved as of February 11, 2002, and the regulations are amended in 21 CFR 558.515 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.515 is amended in the table in paragraph (d) by adding new entries after the entry for ''Bacitracin (as bacitracin methylene disalicylate) 27 to 50'' under the ''Combination in grams/ton'' column to read as follows:

§ 558.515 Robenidine hydrochloride.

* * * * *

(d) * * *

Robenidine hydrochloride in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	* *	* *	*
	Bacitracin (as bacitracin methylene disalicylate) 27 to 50	* * *	* * *	* * *
	Bacitracin (as bacitracin methylene disalicylate) 50	For broiler and fryer chickens: As an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin.	Feed continuously as sole ration. Do not feed to laying hens. Withdraw 5 days before slaughter.	046573
	Bacitracin (as bacitracin methylene disalicylate) 100 to 200	For broiler and fryer chickens: As an aid in the control of necrotic enteritis caused or complicated by Clostridium spp. or other organisms susceptible to bacitracin.	To control a necrotic enteritis outbreak, start medication at first clinical signs of disease; administer continuously for 5 to 7 days or as long as clinical signs persist, then reduce bacitracin methylene disalicylate to prevention level (50 g/ton). Do not feed to laying hens. Withdraw 5 days before slaughter.	046573
*	*	* *	* *	*

Dated: April 18, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–11207 Filed 5–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4009]

Visas: Passports and Visas Not Required for Certain Nonimmigrants—Visa Waiver Program

ACTION: Final rule.

SUMMARY: This rule amends the Department of State's regulation regarding the Visa Waiver Pilot Program (VWPP) by removing from it the list of countries designated to participate in the Visa Waiver Program (VWP), by changing all references to the VWPP to references to the VWP, and by adding a paragraph to require that an alien denied admission under the VWP obtain a visa before again seeking admission into the United States. Each of the amendments is necessitated by a statutory change. Readers will now be referred to the Department of Justice (INS) regulations for the list of VWP-designated countries, the VWP will only be referred to as such, rather than the VWPP, and an alien from a VWP country refused admission to the United States under the VWP will be permitted to file a visa application as the only form of appeal from such a denial.

DATES: Effective date: The rule takes effect on May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick Chairge, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, DC 20520–0106, 202–663–1202.

SUPPLEMENTARY INFORMATION:

What Is the History of the Visa Waiver Program (VWP)?

Authority for the Visa Waiver Program is contained in section 217 of the Immigration and Nationality Act, added initially by section 313 of the Immigrant Reform and Control Act of 1986 (IRCA). Until the enactment of the Visa Waiver Permanent Program Act (VWPPA), Public Law 106–369, on October 30, 2000, the VWP was a pilot program, known as the Visa Waiver Pilot Program (VWPP). Under the original provisions of the VWPP, the Attorney General acted jointly with the Secretary of State to determine which countries would be designated to have their nationals participate in the VWP. However, prior to the enactment of the VWPPA, Public Law 104–208 amended the statutory language to permit the Attorney General, after consultation with the Secretary of State, to make that determination. In addition, among the other changes made to the VWP by the VWPPA was the addition of a requirement that aliens denied admission into the United States under the VWP must obtain a visa prior to again seeking admission. The Department previously has promulgated regulations regarding the VWP at 22 CFR 41.2(l).

How Is the Department Amending Its Regulation?

Effective February 21, 2002, the Attorney General, after consultation with the Secretary of State, terminated Argentina as a country designated to participate in the Visa Waiver Program (VWP). Under the Department's existing regulation the removal of Argentina would necessitate an amendment by the Department to its list of VWP countries found at 22 CFR 41.2(l)(2). However, in view of the fact that final authority for designating countries to participate in the VWP now rests with the Attorney General, the Department is taking this opportunity to eliminate the list of designated countries entirely from its regulation and is replacing it with a cross reference to the authoritative list contained in the VWP regulation of the Department of Justice (INS) found at 8 CFR 217.2(a). Further, the Department is changing the name of the program used in its regulation to the Visa Waiver Program in order to reflect the program's permanent status per the VWPPA. Finally, the Department is also adding a new paragraph 2 to the regulation to require consular officers to accept and adjudicate a properly filed visa application from a national of a program country who has been denied admission under the Visa Waiver Program by virtue of an INA 212(a) inadmissibility. Pursuant to the VWPPA, no other means of administrative or judicial review of a denial is permitted.

Regulatory Findings

Administrative Procedure Act

The Department's implementation of this regulation as a final rule is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). Publication of this regulation as a final rule will expedite implementation of Public Laws 106–369 and 104–208, both already in effect. The change of the name of the program and the removal of the list of countries from the current regulation serve only to conform the existing regulation to the relevant statutes without any administrative interpretation or additional burden being placed on the public. Likewise, the application requirement for persons refused admission simply informs the public of a new statutory requirement, placing it in the context of the relevant Department regulation. In view of these circumstances, the Department does not believe that a solicitation for comments would serve any useful purpose.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not 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 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 13132

This regulation 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form DS–156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act as OMB control number 1405–0018.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

For the reasons set forth in the preamble, the Department is amending the regulations at 22 CFR 41.2 to read as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801.

2. Revise § 41.2(l) to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(l) *Visa waiver program.* (1) A visa is not required of any person who seeks admission to the United States for a period of 90 days or less as a visitor for business or pleasure and who is eligible to apply for admission to the United States as a Visa Waiver Program applicant. (For the list of countries whose nationals are eligible to apply for admission to the United States as Visa Waiver Program applicants, *see* 8 CFR 217.2(a)).

(2) An alien denied admission under the Visa Waiver Program by virtue of a ground of inadmissibility described in INA section 212(a) that is discovered at the time of the alien's application for admission at a port of entry or through use of an automated electronic database may apply for a visa as the only means of challenging such a determination. A consular officer must accept and adjudicate any such application if the alien otherwise fulfills all of the application requirements contained in Part 40, § 41.2(l)(1).

Dated: March 22, 2002.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 02–11164 Filed 5–6–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8993]

RIN 1545–AY60

Debt Instruments With Original Issue Discount; Annuity Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the federal income tax treatment of annuity contracts issued by certain insurance companies. The regulations provide guidance on whether certain annuity contracts are excluded from the definition of a debt instrument under the original issue discount provisions of the Internal Revenue Code.

DATES: *Effective Date:* These regulations are effective June 6, 2002.

Applicability Dates: For dates of applicability, see § 1.1275–1(k)(3).

FOR FURTHER INFORMATION CONTACT: Patrick E. White, (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 163(e) and 1271 through 1275 of the Internal Revenue Code (Code) provide rules for the treatment of debt instruments with original issue discount (OID). Section 1275(a)(1)(A) defines the term debt instrument to include a bond, debenture, note, or

certificate or other evidence of indebtedness. Sections 1275(a)(1)(B)(i) and (ii), however, exclude certain annuity contracts from the definition of a debt instrument. This document contains rules concerning the exception for annuities described in section 1275(a)(1)(B)(ii). A notice of proposed rulemaking (REG–125237–00, 2001–12 I.R.B. 919) was published in the **Federal Register** (66 FR 2852) on January 12, 2001. One individual commented anonymously on the proposed regulations. The individual primarily expressed concern that the proposed guidance should not limit the investment options of U.S. investors. No public hearing was requested or held. The proposed regulations are adopted as proposed.

Explanation of Provisions

In general, the OID provisions apply to issuers and holders of debt instruments. The term debt instrument generally means any instrument or contractual arrangement that constitutes indebtedness under general principles of income tax law. See section 1275(a)(1)(A) and § 1.1275–1(d) of the Income Tax Regulations.

If a contract is a debt instrument with OID, section 1272 generally requires the holder of the contract to include OID in income currently on a constant yield basis, regardless of the holder's overall method of accounting. By contrast, the holder of an annuity contract to which section 72 applies generally is allowed to defer recognizing economically earned income until distributions are made on the contract.

Section 1275(a)(1)(B) excepts two types of annuity contracts from the definition of a debt instrument. First, section 1275(a)(1)(B)(i) excepts an annuity contract to which section 72 applies if the contract ''depends (in whole or in substantial part) on the life expectancy of 1 or more individuals.'' Second, section 1275(a)(1)(B)(ii) excepts an annuity contract to which section 72 applies under certain circumstances if the contract ''is issued by an insurance company subject to tax under subchapter L (or by an entity described in section 501(c) and exempt from tax under section 501(a) which would be subject to tax under subchapter L were it not so exempt). . . .''

The regulations provide that an annuity contract issued by a foreign insurance company is treated under section 1275(a)(1)(B)(ii) as issued by an insurance company subject to tax under subchapter L if the insurance company is subject to tax under subchapter L with respect to income earned on the annuity contract. The IRS and Treasury conclude that this is the most appropriate application of the language of section 1275(a)(1)(B)(ii) and is consistent with the use of that phrase elsewhere in the Code and regulations. See, e.g., sections 953(e)(3)(C) and 1297(b)(2)(B); § 1.848–2(h).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Patrick E. White, Office of the Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1271–0 is amended by adding entries for paragraphs (k) through (k)(3) to § 1.1275–1 to read as follows:

§ 1.1271–0 Original issue discount; effective dates; table of contents.

* * * * *

§ 1.1275–1 Definitions.

* * * * *

(k) Exception under section 1275(a)(1)(B)(ii) for annuities issued by an insurance company subject to tax under subchapter L of the Internal Revenue Code.

(1) Rule.

(2) Examples.

(3) Effective date.

* * * * *

Par. 3. Section 1.1275–1 is amended by adding paragraph (k) to read as follows:

§ 1.1275–1 Definitions.

* * * * *

(k) *Exception under section 1275(a)(1)(B)(ii) for annuities issued by an insurance company subject to tax under subchapter L of the Internal Revenue Code*—(1) *Rule.* For purposes of section 1275(a)(1)(B)(ii), an annuity contract issued by a foreign insurance company is considered as issued by an insurance company subject to tax under subchapter L if the insurance company is subject to tax under subchapter L with respect to income earned on the annuity contract.

(2) *Examples.* The following examples illustrate the rule of paragraph (k)(1) of this section. Each example assumes that the annuity contract is a contract to which section 72 applies and was issued in a transaction where there is no consideration other than cash or another qualifying annuity contract, pursuant to the exercise of an election under an insurance contract by a beneficiary thereof on the death of the insured party, or in a transaction involving a qualified pension or employee benefit plan. The examples are as follows:

Example 1. Company X is an insurance company that is organized, licensed and doing business in Country Y. Company X does not have a U.S. trade or business and is not, under section 842, subject to U.S. income tax under subchapter L with respect to income earned on annuity contracts. A, a U.S. taxpayer, purchases an annuity contract from Company X in Country Y. The annuity contract is not excepted from the definition of a debt instrument by section 1275(a)(1)(B)(ii).

Example 2. The facts are the same as in Example 1, except that Company X has a U.S. trade or business. A purchased the annuity from Company X's U.S. trade or business. Under section 842(a), Company X is subject to tax under subchapter L with respect to income earned on the annuity contract. Under these facts, the annuity contract is excepted from the definition of a debt instrument by section 1275(a)(1)(B)(ii).

Example 3. The facts are the same as in *Example 2,* except that there is a tax treaty between Country Y and the United States. Company X is a resident of Country Y for purposes of the U.S.-Country Y tax treaty. Company X's activities in the U.S. do not constitute a permanent establishment under the U.S.-Country Y tax treaty. Because Company X does not have a U.S. permanent establishment, Company X is not subject to tax under subchapter L with respect to income earned on the annuity contract. Thus, the annuity contract is not excepted from the definition of a debt instrument by section 1275(a)(1)(B)(ii).

Example 4. The facts are the same as in *Example 1,* except that Company X is a

foreign insurance corporation controlled by a U.S. shareholder. Company X does not make an election 1 under section 953(d) to be treated as a domestic corporation. The controlling U.S. shareholder is required under sections 953 and 954 to include income earned on the annuity contract in its taxable income under subpart F. However, Company X is not subject to tax under subchapter L with respect to income earned on the annuity contract. Thus, the annuity contract is not excepted from the definition of a debt instrument by section 1275(a)(1)(B)(ii).

Example 5. The facts are the same as in *Example 4,* except that Company X properly elects under section 953(d) to be treated as a domestic corporation. By reason of its election, Company X is subject to tax under subchapter L with respect to income earned on the annuity contract. Thus, the annuity contract is excepted from the definition of a debt instrument by section 1275(a)(1)(B)(ii).

(3) *Effective date.* This paragraph (k) is applicable for interest accruals on or after June 6, 2002. This paragraph (k) does not apply to an annuity contract that was purchased before January 12, 2001. For purposes of this paragraph (k), if any additional investment in a contract purchased before January 12, 2001, is made on or after January 12, 2001, and the additional investment is not required to be made under a binding written contractual obligation that was entered into before that date, then the additional investment is treated as the purchase of a contract after January 12, 2001.

Dated: April 26, 2002.

David A. Mader,

Acting, Deputy Commission of Internal Revenue.

Pamela F. Olson,

Acting, Assistant Secretary of the Treasury

[FR Doc. 02–11035 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–229–FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Kentucky permanent regulatory program (the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposed revisions to the State regulations pertaining to subsidence control. The amendment is intended to render the Kentucky program consistent with the corresponding Federal regulations and to provide additional specificity.

EFFECTIVE DATE: May 7, 2002.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Field Office Director Telephone: (859) 260–8400. Address: Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky 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 Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of 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 these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982 **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated January 25, 2001 (Administrative Record No. KY–1502), the Kentucky Department of Surface Mining Reclamation and Enforcement sent us an amendment to the Kentucky program. In its letter, Kentucky noted that on December 22, 1999, we suspended and modified portions of 30 CFR 784.20 and 30 CFR 817.121(c)(4)(i) through (iv) pursuant to an order of the United States Court of Appeals for the District of Columbia Circuit. Kentucky proposed to amend its rules in the same manner that we modified our regulations. The amendment, at Title 405 of the Kentucky Administrative Regulations (KAR) Chapter 18:210, deleted the provision that required presubsidence surveys of structures at Section 1(4) and the rebuttable presumption of causation of subsidence damage at Section 3(4).

Kentucky also submitted changes to Section 2(2) of 405 KAR 18:210, deleting references to the presubsidence survey of structures and adding a provision allowing property owners to waive the 30-day mining moratorium following the emergency notice. With the exception of the deletion of the references to presubsidence structural surveys, the changes to Section 2(2) do not correspond to any federal regulatory changes.

We announced receipt of the proposed amendment in the March 5, 2001, **Federal Register** (66 FR 13275). 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. KY–1519). The public comment period ended on April 4, 2001.

By letter dated June 8, 2001 (Administrative Record No. KY–1513), Kentucky submitted the final version of the proposed amendment.

We reopened the public comment period in the August 15, 2001, **Federal Register** (66 FR 42815) and provided an opportunity for a public hearing or meeting on the adequacy of the revised amendment. (Administrative Record No. KY–1515). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 30, 2001. We received comments from one industry group, one Federal agency, and two private citizens.

Procedural History of Suspended Federal Rules

The Energy Policy Act was enacted October 24, 1992, Pub. L. 102–486, 106 Stat. 2776 (1992) (hereinafter, The Energy Policy Act or EPAct). Section 2504 of that Act, 106 Stat. 2776, 3104, amends SMCRA, 30 U.S.C. 1201 *et seq.* Section 2504 of EPAct added a new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal-mining operations conducted after October 24, 1992, promptly repair or compensate for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground coal mining operations. Repair of damage includes rehabilitation, restoration, or

replacement of the structures identified by section 720(a)(1), and compensation must be provided to the owners in the full amount of the diminution in value resulting from the subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies, which have been adversely affected by underground coal mining operations. Under section 720(b), the Secretary of the Interior was required to promulgate final regulations to implement the provisions of section 720(a).

On September 24, 1993 (58 FR 50174), OSM published a proposed rule to amend the regulations applicable to underground coal mining and control of subsidence-caused damage to lands and structures through the adoption of a number of permitting requirements and performance standards. We adopted final regulations on March 31, 1995 (60 FR 16722).

The rules were challenged by the National Mining Association in the District Court for the District of Columbia and in the U.S. Court of Appeals for the District of Columbia Circuit. On April 27, 1999, the U.S. Court of Appeals issued a decision vacating certain portions of the regulatory provisions of the subsidence regulations. See *National Mining Association* v. *Babbitt,* 173 F.3d 906 (1999). We suspended those regulatory provisions that are inconsistent with the rationale provided in the U.S. Court of Appeals' decision. The following Federal provisions were suspended.

1. 30 CFR 817.121(c)(4)(i) through (iv)

This regulation provided that if damage to any non-commercial building or occupied residential dwelling or structures related thereto occurred as a result of earth movement within an area determined by projecting a specific angle of draw from the outer-most boundary of any underground mine workings to the surface of the land, a rebuttable presumption would exist that the permittee caused the damage. The presumption typically would have applied to a 30-degree angle of draw. Once the presumption was triggered, the burden of going forward shifted to the mine operator to offer evidence that the damage was attributable to another cause. The purpose of this regulatory provision was to set out a procedure under which damage occurring within a specific area would be subject to a rebuttable presumption that subsidence from underground mining was the cause of any surface damage to non-commercial buildings or occupied residential dwellings and related structures.

The Court of Appeals vacated, in its entirety, this rule that established an angle of draw and that created a rebuttable presumption that damage to EPAct protected structures within an area defined by an ''angle of draw'' was in fact caused by the underground mining operation. 173 F.3d at 913.

In reviewing the regulation, the Court rejected the Secretary's contention that the angle of draw concept was reasonably based on technical and scientific assessments and that it logically connected the surface area that could be damaged from earth movement to the underground mining operation. The angle of draw provided the basis for establishing the surface area within which the rebuttable presumption would apply. The Secretary had explained that the rebuttable presumption merely shifted the burden of document production to the operator in evaluating whether the damage was actually caused by the underground mining operation within the surface area defined by the angle of draw. The Court nevertheless held that the angle of draw was irrationally broad and that the scientific facts presented did not support the logical inference that damage to the surface area would be caused by earth movement from underground mining within the area.

Based on the conclusion that there was no scientific or technical basis provided for establishing a rational connection between the angle of draw and surface area damage, the Court further concluded that the rebuttable presumption failed. In reviewing the rebuttable presumption requirement, the Court held ''an evidentiary presumption is 'only permissible if there is sound and rational connection between the proved and inferred facts, and when proof of one fact renders the existence of another fact so probable that it is sensible and timesaving to assume the truth of [the inferred] fact * * * until the adversary disproves it.' '' That is to say, for the presumption to be permissible, the facts would have to demonstrate that the earth movement from the underground mining operation ''more likely than not'' caused the damage at the surface. See National Mining Association, 173 F.3d at 906–910. In compliance with the Court of Appeals' decision of April 27, 1999, we suspended 30 CFR 817.121(c)(4)(i) through (iv).

Paragraph (v) within this section applies generally to the types of information that must be considered in determining the cause of damage to an EPAct protected structure and is not limited to or expanded by the area defined by the angle of draw. Therefore, paragraph (v) remains in force.

2. Section 784.20(a)(3)

This regulatory provision required, unless the owner denied the applicant access for such purposes, a survey, which identified certain features. First, the survey had to identify the condition of all non-commercial buildings or occupied residential dwellings and related structures, which were within the area, encompassed by the applicable angle of draw and which might sustain material damage, or whose reasonably foreseeable use might be diminished, as a result of mine subsidence. Second, the survey had to identify the quantity and quality of all drinking, domestic, and residential water supplies within the proposed permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. In addition, the applicant was required to notify the owner in writing that denial of access would remove the rebuttable presumption that subsidence from the operation caused any post mining damage to protected structures that occurred within the surface area that corresponded to the angle of draw for the operation. (See discussion of angle of draw above). This regulatory provision was challenged insofar as it required a specific structural condition survey of all EPAct protected structures. The Court of Appeals vacated the specific structural condition survey regulatory requirement in its decision on April 27, 1999. In reviewing the Secretary's requirement, the Court clearly upheld the Secretary's authority to require a pre-subsidence structural condition survey of all EPAct protected structures. The Court accepted the Secretary's explanation that this specific structural condition survey was necessary, among other requirements, in order to determine whether a subsidence control plan would be required for the mining operation. However, because of the Court's ruling on the ''angle of draw'' regulation discussed above, it vacated the requirement for a specific structural condition survey because it was tied directly to the area defined by the ''angle of draw.''

In compliance with the Court of Appeals'' decision, we suspended that portion of 30 CFR 784.20(a)(3) which required a specific structural condition survey of all EPAct protected structures. The remainder of this section continues in force to the extent that it applies to the EPAct protected water supplies survey and any technical assessments or engineering evaluations necessarily related thereto.

III. Director's Findings

Following are the findings we made concerning Kentucky's amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As discussed below, we are approving the amendment.

Deletion of 405 KAR18:210 Section 1(4)(a)–(d)

Section 1(4)(a) of 405 KAR 18:210 requires presubsidence surveys of the specific structural conditions of protected structures within the projected angle of draw. Section 1(4)(b) provides for filing of written objections to the survey by property owners. Section 1(4)(c) prohibits mining within 1,500 feet horizontally of a structure for which a survey is required, unless the permittee submits the survey or demonstrates that the property owner refused access to the site for purposes of conducting the survey. Section 1(4)(d) allows the permittee to request an alternative to the temporary 1,500-foot buffer zone, based upon the angle of draw.

Paragraph (a) of Section 1(4) is substantively identical to the suspended portion of the Federal regulations at 30 CFR 784.20(a)(3). Paragraphs (b), (c) and (d) of Section 1(4) have no direct Federal counterparts. However, they relate only to the presubsidence structural survey requirement of paragraph (a). Because these State regulations are either substantively identical to or related only to the suspended portion of the Federal regulations at 30 CFR 784.20(a)(3), we find that their deletion will not render the Kentucky program inconsistent with SMCRA or the Federal regulations. Therefore, the deletions are approved.

Deletion of 405 KAR 18:210 Section 3(4)

Section 3(4) of 405 KAR 18:210 establishes a rebuttable presumption that damage to protected structures resulting from earth movement within the projected angle of draw was caused by the permittee. This provision is substantively identical to the suspended Federal regulations at 30 CFR 817.121(c)(4)(i) through (iv). Therefore, we find that its deletion will not render the Kentucky program inconsistent with SMCRA or the Federal regulations. We are approving the deletion.

Revision of 405 KAR 18:210 Section 2(2)

Kentucky also proposes to amend 405 KAR 18:210, Section 2(2), which requires notice to surface owners before mining beneath their property. Section 2(1) requires the permittee to notify, in writing, all residents and occupants of surface properties and structures within the area above underground workings that mining will occur beneath their property or structures. The notification must be by mail, and must be sent to the owners or occupants at least 90 days prior to mining beneath the property or structures. Section 2(2) provides an exception to the minimum notification time in Section 2(1) if ''subsequent emergencies or other unforeseen conditions in underground mining necessitate mining beneath such property or residence sooner than ninety (90) days after such notice.'' If an emergency or other unforeseen condition exists, the State rule requires an additional written notice to the owner or resident that mining will occur. It also provides that ''in no case shall mining be conducted beneath the property or residence sooner than thirty (30) days after such additional notice is given.''

Kentucky proposes to amend Section 2(2) to allow the property owner to waive the 30-day moratorium on mining. The waiver must be expressly given, in writing, and ''shall be granted after the initial notice required under subsection (1) of this section has been given, and shall be separate from any other waiver, lease, deed, easement, agreement, or other conveyance of property or rights.'' Kentucky has stated that both the initial notice under Section 2(1) and subsequent notice under Sections 2(2) are not waivable. Rather, the property owner may waive only the 30-day mining moratorium that commences after the subsequent notice. (See April 11, 2001, Statement of Consideration, Administrative Record No. KY–1513).

The Federal regulations at 30 CFR 817.122 require underground mine operators to provide written notice by mail, at least 6 months prior to mining, to all owners and occupants of surface property and structures above underground workings. The regulatory authority may, however, approve a notice period of less than 6 months after considering whether the chosen notice period is sufficient to ''allow surface owners to take steps to protect their property.'' (48 FR 24638, 24647, June 1, 1983).

Because Kentucky does not propose to allow waiver of either the initial or subsequent, i.e., ''emergency'' notice, a property owner will have at least 30 days warning, if he wants it, of the impending underground mining. As such, the owner will have an opportunity, if he so desires, to take steps necessary to protect that property. Therefore, the allowance of a waiver, so long as it is expressly given in writing, does not frustrate the purpose of this regulation, which is to provide a landowner with sufficient time to protect his property if he wishes to do so. For this reason, the proposed amendment does not render Section 2(2) inconsistent with the Federal regulations at 30 CFR 817.122, and it is therefore approved. However, for the reasons discussed below in our responses to the comments of the National Citizens' Coal Law Project, we are approving the waiver provision only to the extent that, where more than one entity owns the land or mineral resources, all such owners must sign express waivers of the 30-day period before the regulatory authority may grant the waiver.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment. One public comment was received from National Citizen's Coal Law Project in a letter dated August 30, 2001 (Administrative Record No. KY–1517). The commenter stated that the regulation, at 405 KAR 18:210, Section 2(2), is inconsistent with and less effective than the corresponding Federal counterpart requirement at 30 CFR 817.122 because it provides for a 30-day notice period prior to mining in some instances, whereas the federal regulation requires at least 6 months notice. Specifically, the commenter charged that ''Kentucky's regulatory approach has been eroding the timeframe set by Congress from six months to three months, to one month, and now proposes to eliminate entirely the waiting period.'' Therefore, the commenter stated that the amendment must be disapproved.

We disagree. First, we previously approved the 30-day emergency notice period in our original approval of the Kentucky program (47 FR at 21412, Finding 13.21, in which we approved 405 KAR 18:210E, Section 2). Second, Kentucky does not propose to eliminate the notice period entirely, as the commenter alleges, unless the property owner waives his right to use that period to take steps necessary to protect his property from mining. Therefore, as explained in the finding above, the purpose of the regulation is still served.

The commenter also objected to the allowance of a waiver of the 30-day notice period prior to mining. Specifically, the commenter stated the following: (1) Where the landowner who resides in the dwelling refuses to sign a waiver or lease but a non-resident co-tenant signs such a lease and a waiver of the 30-day notice, this regulation

could allow immediate undermining despite the objection of the surface owner; (2) The existence of past fraud in submission of waivers also demands that a time period be allowed to assure that undermining does not occur based on a fraudulent ''waiver'' of the 30-day period and; (3) Once undermined, the aggrieved party who opposed mining cannot be made ''whole.'' Their property and interests are irreparably altered. Allowing the waiver of any time frame based on an ''owner'' waiver, the commenter indicated, invites more mischief and more hardship for co-tenants who are often subject to coal companies purchasing or leasing a minor fractional interest and then mining the property.

We agree that the commenter's concerns have some historical validity. Therefore, our approval of this waiver provision must not be construed to allow the outcomes feared by the commenter. In other words, as noted in the finding above, we are approving the waiver provision only to the extent that, where more than one entity owns the land or mineral resources, all such owners must sign express waivers of the 30-day period before the regulatory authority may grant the waiver. Moreover, we believe that safeguards in the proposal itself may assuage the commenter's concern about fraudulent waivers. For example, the regulation provides that the waiver may be granted only after the permittee has made the initial notice as required, and the waiver must be separate from any other waiver, lease, deed, easement, agreement, or other conveyance of property or rights. These restrictions will help insure that the owner is aware, at the time he grants the waiver, of the current circumstances and the notice to which he is entitled. Moreover, because the regulatory authority will receive copies of the waivers, it can verify the names of the waiving property owners by checking them against the names of surface and mineral owners provided in the permit application. While these safeguards do not guarantee that a fraudulent waiver will never be accepted, such a guarantee simply does not exist. Indeed, regulatory authorities must rely to some degree upon the veracity of the permittee in other instances, such as the acceptance of information provided in a permit application itself. Finally, we note again that the permittee must give the initial 90-day notice and an additional notice as required when it wishes to undermine a property sooner than 90 days after the initial notice. The owner cannot waive the permittee's obligation to provide these notices.

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 Kentucky program (Administrative Record No. KY–1515). The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded in a letter dated August 27, 2001 (Administrative Record No. KY–1516). The commenter indicated that the proposed changes should have no foreseeable impact concerning MSHA.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written concurrence from 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.*). This amendment does not pertain to air or water quality standards. Therefore, we did not ask the EPA for concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. KY–1515). 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 August 22, 2001, we requested comments on Kentucky's amendment (Administrative Record No. KY–1515), but neither entity responded to our request.

V. Director's Decision

Based on the above findings, we approve the Kentucky amendment, as revised on June 8, 2001.

To implement this decision we are amending the Federal regulations at 30 CFR part 917, which codifies decisions concerning the Kentucky program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503 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. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

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 12866—Regulatory Planning and Review

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

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 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 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 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 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

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 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.*). 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. 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

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. 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 did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 917 is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

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

2. Section 917.15 is amended by adding a new entry to the table in chronological order to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
January 25, 2001	May 7, 2002	405 KAR 18:210, Sections 1(4), 2(2), and 3(4).

[FR Doc. 02–11212 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5]

Privacy Act; Implementation

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy deleted the exempt system of records N05527–4, entitled ''Naval Security Group Personnel Security/Access Files'' on April 24, 2002, at 67 FR 20100. This rule will delete the exemption rule for the now non-existent Privacy Act system of records.

EFFECTIVE DATE: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

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

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

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

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 701

Privacy.

1. The authority citation for 32 CFR part 701, Subpart G continues to read as follows:

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

2. In Section 701.118, paragraph (p) is removed and reserved as follows:

§ 701.118 Exemptions for specific Navy record systems.

* * * * *

(p) [Reserved]

* * * * *

Dated: April 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–10993 Filed 5–6–02; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[USCG–2002–12227]

Safety Zones and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between July 1, 2001 and March 31, 2002, which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between July 1, 2001 and March 31, 2002.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact LTJG Sean Fahey, Office of Regulations and Administrative Law, telephone (202) 267–2830. For questions on viewing, or on submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation (202) 366–5149.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Safety and security zones may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these special local regulations, security zones, or safety zones by Coast Guard officials on-scene prior to the enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary security zones and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones and security zones listed in this notice have been exempted from review under Executive Order 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period from July 1, 2001 through March 31, 2002, unless otherwise indicated. This notice also includes regulations that were not received in time to be included on the quarterly notice for the third and fourth quarter of 2001.

Dated: May 1, 2002.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law.

COTP QUARTERLY REPORT.—1ST QUARTER 2002

COTP docket	Location	Type	Effective date
ACTBALT 02–001	POCOMOKE CITY, MARYLAND	SAFETY ZONE	01/18/2002
CHARLESTON 02–012	COOPER RIVER, SOUTH CAROLINA	SECURITY ZONE	02/19/2002
CORPUS CHRISTI 02–002	PORT OF CORPUS CHRISTI, TEXAS	SECURITY ZONE	03/09/2002
HOUSTON–GALVESTON 02–003	GALVESTON, TEXAS	SECURITY ZONE	03/19/2002
HOUSTON–GALVESTON 02–004	GALVESTON, TEXAS	SECURITY ZONE	03/29/2002

COTP QUARTERLY REPORT.—1ST QUARTER 2002—Continued

COTP docket	Location	Type	Effective date
JACKSONVILLE 02–005	ATLANTIC OCEAN, DAYTON BEACH, FL	SECURITY ZONE	01/30/2002
JACKSONVILLE 02–010	PORT CANAVERAL, FL	SECURITY ZONE	02/13/2002
JACKSONVILLE 02–016	COCOA, FL	SAFETY ZONE	02/23/2002
JACKSONVILLE 02–017	MATANZAS RIVER, ST. AUGUSTINE, FL	SAFETY ZONE	02/22/2002
LA/LONG BEACH 02–001	LOS ANGELES HARBOR, CALIFORNIA	SECURITY ZONE	01/07/2002
MEMPHIS 02–001	LWR MISSISSIPPI RIVER, M. 595 TO 618	SAFETY ZONE	01/10/2002
MEMPHIS 02–003	MCCLELLAN–KERR ARKANSAS RIVER	SAFETY ZONE	02/13/2002
MEMPHIS 02–004	LWR MISSISSIPPI RIVER, M. 733 TO 736	SAFETY ZONE	02/13/2002
MEMPHIS 02–005	MCCLELLAN–KERR ARKANSAS RIVER	SAFETY ZONE	02/28/2002
MEMPHIS 02–006	MCCLELLAN–KERR ARKANSAS RIVER	SAFETY ZONE	03/16/2002
MOBILE 02–001	WEST PASCAGOULA RIVER AND BAY	SAFETY ZONE	01/21/2002
MOBILE 02–002	CHOCTAWHATCHEE BAY, FLORIDA	SECURITY ZONE	02/04/2002
MOBILE 02–003	MOBILE RIVER, MOBILE, ALABAMA	SAFETY ZONE	03/01/2002
MORGAN CITY 02–001	EUGENE ISLAND SEA BUOY TO MM 119.8	SAFETY ZONE	03/12/2002
NEW ORLEANS 02–001	LWR MISSISSIPPI RIVER, M. 99 TO 102	SECURITY ZONE	01/15/2002
NEW ORLEANS 02–002	LWR MISSISSIPPI RIVER, M. 92.6 TO 98.2	SECURITY ZONE	02/01/2002
NEW ORLEANS 02–003	LUNDI GRASS BOAT PARADE, M. 94 TO 96	SAFETY ZONE	02/11/2002
NEW ORLEANS 02–006	RIGOLETS RAILROAD DRAW BRIDGE	SAFETY ZONE	03/18/2002
PADUCAH 02–001	TENNESSEE RIVER, M. 446 TO 471	SAFETY ZONE	01/24/2002
PADUCAH 02–002	TENNESSEE RIVER, M. 0 TO 003.5	SAFETY ZONE	01/29/2002
PADUCAH 02–003	TENNESSEE RIVER, M. 002 TO 003	SAFETY ZONE	02/07/2002
PADUCAH 02–004	TENNESSEE RIVER, M. 446 TO 454.6	SAFETY ZONE	03/18/2002
PITTSBURGH 02–003	MONONGAHELA RIVER, M. 0 TO 0.5	SECURITY ZONE	02/05/2002
PITTSBURGH 02–004	OHIO RIVER, M. 14.8	SAFETY ZONE	02/27/2002
PITTSBURGH 02–006	OHIO RIVER, M. 24 TO 25	SAFETY ZONE	03/09/2002
PORT ARTHUR 02–001	PORT ARTHUR, TX	SAFETY ZONE	02/10/2002
SAN DIEGO 02–002	SAN DIEGO, CA	SAFETY ZONE	02/06/2002
SAN FRANCISCO BAY 02–001	OFFSHORE OF SAN FRANCISCO, CA	SAFETY ZONE	02/08/2002
WESTERN ALASKA 02–002	COOK INLET, AK	SECURITY ZONE	01/08/2002
WESTERN ALASKA 02–006	S/S ARCTIC SUN, COOK INLET, AK	SECURITY ZONE	01/19/2002

DISTRICT QUARTERLY REPORT.—1ST QUARTER 2002

District docket	Location	Type	Effective date
01–02–008	PRESIDENTIAL VISITS, PORTLAND, ME	SAFETY ZONE	01/25/2002
01–02–022	PORTLAND, ME	SAFETY ZONE	02/22/2002
05–02–001	HAMPTON ROADS, ELIZABETH RIVER, VA	SECURITY ZONE	01/14/2002
05–02–001a	HAMPTON ROADS, ELIZABETH RIVER, VA	SECURITY ZONE	01/15/2002
05–02–002	HAMPTON ROADS, ELIZABETH RIVER, VA	SECURITY ZONE	02/07/2002
05–02–010	ELK RIVER, CHESAPEAKE BAY, MARYLAND	SAFETY ZONE	03/04/2002
05–02–011	HAMPTON ROADS, ELIZABETH RIVER, VA	SECURITY ZONE	03/21/2002
09–02–002	LAKE ST. CLAIR, HARRISON TWP., MI	SAFETY ZONE	02/16/2002
13–02–001	PORTLAND INTERNATIONAL AIRPORT	SECURITY ZONE	01/05/2002
13–2–005	AIRCRAFT IN THE WATER, ELLIOTT BAY, WA	SAFETY ZONE	03/28/2002

REGULATIONS NOT ON PREVIOUS 3RD AND 4TH QUARTERLY REPORT

District/COTP	Location	Type	Effective date
DISTRICT REGULATION FOR 3RD QUARTER			
CGD09–01–062	LAKE ONTARIO, OSWEGO, NEW YORK	SAFETY ZONE	07/01/01
COTP REGULATIONS FOR 4TH QUARTER			
CORPUS CHRISTI 01–003	INNER HARBOR, CORPUS CHRISTI, TX	SAFETY ZONE	10/01/01
JACKSONVILLE 01–131	ST. JOHN'S RIVER, JACKSONVILLE, FL	SAFETY ZONE	10/27/01
PITTSBURGH 01–005	OHIO RIVER, M. 119 TO 119.8	SAFETY ZONE	10/15/01
PITTSBURGH 01–006	OHIO RIVER, M. 34.6 TO 35.1	SAFETY ZONE	10/15/01
WESTERN ALASKA 01–007	PHILLIPS PETROLEUM, LNG PIER, NIKISKI, AK	SECURITY ZONE	10/19/01

[FR Doc. 02–11277 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Port Arthur–02–002]

RIN 2115–AA97

Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones for all waters of the Neches River, adjacent to Port Neches Park in Port Neches, Texas. These safety zones are necessary to protect spectators and vessels from the potential safety hazards associated with a fireworks display and boat races that are part of the Port Neches Chamber of Commerce Riverfest. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port, Port Arthur or his designated representative.

DATES: This rule is effective from 8 p.m. on May 11, 2002 through 6 p.m. on May 12, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Port Arthur-02–002] and are available for inspection or copying at Marine Safety Office Port Arthur, 2875 Jimmy Johnson Blvd., Port Arthur, Texas, 77640 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Mike Kicklighter, Marine Safety Office Port Arthur, at (409) 723–6500.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with this event. The Coast Guard did not receive notice of the Port Neches Riverfest in time to publish a NPRM or to have the temporary final rule, published in the **Federal Register** 30 days prior to the event.

Background and Purpose

The Port Neches Chamber of Commerce Riverfest will include a fireworks display as well as a series of boat races on the Neches River, adjacent to Port Neches Park, Port Neches, Texas. Safety zones will be established during the fireworks display and during the boat races to ensure the safety of the participants, spectators, and other vessels.

The fireworks safety zone will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park, between the northern boundary at 30°00′00″ N and the southern boundary at 29°59′42″ N. These coordinates are based upon [NAD 83]. This safety zone will be enforced from 8 p.m. to 10 p.m. on May 11, 2002.

The safety zone for the boat races will encompass all waters of the Neches River, shore to shore, adjacent to Port Neches Park in Port Neches, Texas, between the northern boundary at 30°00′12″ N and the southern boundary at 29°59′36″ N. These coordinates are based upon [NAD 83]. This safety zone will be enforced from 8 a.m. to 6 p.m. on May 12, 2002.

Entry into these zones by anyone other than event participants is prohibited, unless authorized by the Captain of the Port, Port Arthur or his designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies procedures of DOT is unnecessary. The waterway will be closed briefly from 8 p.m to 10 p.m. on May 11, 2002 for the fireworks display. On May 12, 2002, there will be two breaks during the boat races. During these breaks, the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander. The break periods will begin at approximately 11 a.m. and 2:45 p.m. and will last approximately one hour each. Notifications of the safety zones and break periods will be made to the marine community by broadcast notices to mariners and the event sponsors. The impacts on routine navigation are expected to be minimal.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit that portion of the Neches River adjacent to Port Neches Park, Port Neches, Texas, from 8 p.m. to 10 p.m. on May 11, 2002 and from 8 a.m. to 6 p.m. on May 12, 2002.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The safety zone for the fireworks display will only be in effect for a short period of time, (2) there will be two breaks during the boat races. During these breaks the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard patrol commander, and (3) notifications of the safety zones and break periods will be made to the marine community by broadcast notices to mariners and the event sponsors.

If you are a small business entity and are significantly affected by this regulation please contact LTJG Mike Kicklighter, Marine Safety Office Port Arthur, at (409) 723–6500.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 8 p.m. May 11 through 6 p.m. May 12, 2002, a new temporary § 165.T08–043 is added to read as follows:

§ 165.T08–043 Safety Zones; Port Neches Riverfest, Neches River, Port Neches, Texas.

(a) *Regulated Areas.* The following areas are safety zones:

(1) *Fireworks safety zone.* All waters of the Neches River, shore to shore, adjacent to Port Neches Park, Port Neches, Texas, between the northern boundary at 30°00′00″ N and the southern boundary at 29°59′42″ N. These coordinates are based upon [NAD 83].

(2) *Boat race safety zone.* All waters of the Neches River, shore to shore, adjacent to Port Neches Park, Port Neches, Texas, between the northern boundary at 30°00′12″ N and the southern boundary at 29°59′36″ N. These coordinates are based upon [NAD 83].

(b) *Enforcement dates.* (1) The fireworks safety zone in paragraph (a)(1) of this section will be enforced from 8 p.m. to 10 p.m. on May 11, 2002.

(2) The boat race safety zone in paragraph (a)(2) of this section will be enforced from 8 a.m. to 6 p.m. on May 12, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into the safety zones in this section is prohibited unless authorized by the Captain of the Port, Port Arthur, or his designated representative.

(2) Vessels requiring entry into or passage through a safety zone in this section must request permission from the Captain of the Port, Port Arthur, or his designated representative. They may be contacted via VHF Channel 13 or 16, or via telephone at (409) 723–6500.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Port Arthur and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 22, 2002.

R.E. Walker,

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

[FR Doc. 02–11276 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP BALTIMORE 02–002]

RIN 2115–AA97

Security Zone; Potomac River, Washington Channel, Washington, DC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone

in the waters of Washington Channel on the Potomac River off Fort Lesley J. McNair, Washington, DC during the May 30, 2002, U.S. Coast Guard Commandant's Change of Command ceremony. The security zone is necessary to provide for the security and safety of life and property of event participants, spectators and mariners on U.S. navigable waters during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port, Baltimore, Maryland, or designated representative.

DATES: This rule is effective from 11 a.m. through 4 p.m. on May 30, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Baltimore 02–002 and are available for inspection or copying at U.S. Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ronald L. Houck, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 20, 2002, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Potomac River, Washington Channel, Washington, DC in the **Federal Register** (67 FR 12947). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Immediate action is needed to protect dignitaries taking part in the high-level military ceremony from potential threats posed by waterborne acts of sabotage or other subversive acts. For the concerns noted, it is in the public interest to have this regulation in effect during the event.

Background and Purpose

The Coast Guard will conduct a Change of Command ceremony along the Potomac River at Washington, DC. A security zone is needed to protect dignitaries taking part in the high-level military ceremony from potential threats posed by waterborne acts of sabotage or other subversive acts. The purpose of the proposed regulation is to promote maritime safety and protect participants and spectators during the event. These regulations will impact the movement of all vessels operating in the specified area on the Washington Channel at Washington, DC.

Discussion of Comments and Changes

No comments were received; therefore, we have made no changes to the regulatory text.

Discussion of Rule

The U.S. Coast Guard Commandant's Change of Command ceremony will be held at Fort Lesley J. McNair, Washington, DC on May 30, 2002. The event will consist of a background comprised of three U.S. Coast Guard vessels anchored adjacent to Fort McNair on the confined waters of the Washington Channel, on the Potomac River. A security zone is needed from 11 a.m. through 4 p.m. on May 30, 2002 to safeguard event participants and spectators. U.S. Coast Guard patrol vessels will be provided to prevent the movement of persons and vessels in an area approximately 200 yards wide and 450 yards long within Washington Channel. Entry into this zone is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port will notify the public of changes in the status of the zone by a Marine Safety Radio Broadcast.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This temporary rule affects a limited area for approximately five hours, and will not completely close the navigable channel. Therefore, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Washington Channel from 11 a.m. through 4 p.m. on May 30, 2002. The zone will only encompass a limited area. Shallow water vessel traffic not constrained by draft can pass safely around the security zone. A lack of commercial vessel traffic exists in the area during the effective period. Maritime advisories on the Change of Command ceremony have been advertised and made widely available to users of the channel and will continue until the ceremony is complete.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have

determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because of the limited duration and scope of the regulation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.T05–006 to read as follows:

§ 165.T05–006 Security Zone; Potomac River, Washington Channel, Washington, DC

(a) *Location.* The following area is a security zone: all waters of the Washington Channel, from surface to bottom, encompassed by lines connecting the following points, beginning at 38°52′03″ N, 077°01′07″ W, thence to 38°52′03″ N, 077°01′14″ W, thence to 38°51′50″ N, 077°01′16″ W, thence to 38°51′50″ N, 077°01′07″ W, thence to 38°52′03″ N, 077°01′07″ W. These coordinates are based upon NAD 1983.

(b) *Regulations.*

(1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Baltimore, Maryland, or his or her designated representative. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number (410) 576–2693 or on VHF channel 16 (156.8 MHz) or VHF channel 22 (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective period.* This section will be effective from 11 a.m. through 4 p.m. on May 30, 2002.

Dated: April 23, 2002.

E.Q. Kahler,

Acting Commander, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 02–11275 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

50 CFR Part 100

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AH85

Subsistence Management Regulations for Public Lands in Alaska

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule, in response to comments on an interim rule, amends the operating regulations of the Federal Subsistence Management Program in Alaska. The primary aspects of that Interim Rule, published June 12, 2001, expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings. This Final Rule also corrects some inadvertent errors and oversights of previous rules.

DATES: This rule is effective June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Thomas H. Boyd, (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation

Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in McDowell required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). On January 8, 1999, (64 FR 1276), the Departments extended jurisdiction to include waters in which there exists a Federal reserved water right. This amended rule conformed the Federal Subsistence Management Program to the Ninth Circuit's ruling in *Alaska* v. *Babbitt.*

Consistent with Subparts A, B, and C of these regulations, the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, and the annual subpart D regulations.

On June 12, 2001 (66 FR 31533), the Secretaries published an Interim rule expanding the authority of the Board to delegate in-season management decisions to local field managers. This final rule responds to comments received on that Interim rule and makes changes to it as appropriate. All Board members have reviewed this rule and agree with its substance.

Federal Subsistence Regional Advisory Councils

Alaska has been divided into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council. The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent geographical, cultural, and user diversity within each region.

Public Review and Comment

The Secretaries published an Interim rule (66 FR 31533) on June 12, 2001, in order to provide necessary delegation of authority to field managers to make crucial fishery management decisions during the past fishing season. At the same time, comments were solicited on the Interim rule. During their Winter Council meetings in February and March 2001, all Regional Advisory Councils supported the expansion of delegation authority found in § ____.10(d)(6). We also received a total of three written comments on the Interim rule.

Analysis of Public Comments

Two commentators supported clarification of residency requirements found in § ____.6(a)(1). A number of agencies indicated that there needed to be clarification regarding the minimum age at which a person could obtain a Federal Subsistence Registration permit or Designated Harvester permit. Clarifying language has been added at § ____.6(b).

Three commentators opposed the expansion of delegated authority, believing that it would remove the public process from critical management decisions. They also indicated that the decisions should remain with the Federal Subsistence Board. In developing the implementing letter that instructs field managers in the procedures to use for in-season management decisions, the Federal Subsistence Board specifically included language requiring public coordination and communication prior to in-season management decisions. During summer and fall 2001, over 30 in-season management decisions were made by field managers. All of these were accomplished with public involvement and close coordination with the Alaska Department of Fish and Game (ADFG). The delegated authority worked so well that ADFG is in the process of acquiring the same level of authority for its own field managers.

One commentator indicated opposition to the formation of any Federal local advisory committees (§ ____.10(d)(4)(xii)). The Board intends to continue utilizing State local fish and game advisory committees and not to establish any Federal ones.

One commentator supported the reorganization and clarifying language relative to Special Actions (§ ____.19).

One commentator recommended transmitting a copy of any Request for Reconsideration to the State for review and recommendation. This requirement has been added to § ____.20(e). Another commentor recommended that the conditions for accepting a Request for Reconsideration be less open to interpretation. The standards that were placed in § ____.20(d) are the same standards that the Board has been using since assuming jurisdiction for subsistence management. However, this is the first time that they have been formally published. We believe that it is in the public interest to let potential requestors know under what circumstances the Board will be accepting a Request for Reconsideration. Unfortunately, all of the criteria cannot be completely objective; there will always be some level of subjectivity.

One commentator also disagreed with a statement made in the preamble regarding economic effects. This rule by itself does not, and will not, restrict any existing sport or commercial fisheries. However, future Board actions could result in some closures to those fisheries in certain areas in order to protect the fish stocks upon which subsistence users and non-subsistence users depend.

Summary of Changes

Based on our analysis of public comments and agency concerns expressed since publication of the Interim rule (66 FR 31533) on June 12, 2001, we have made the following revisions:

Section ____.6(b)—Clarified the age at which you can obtain a Federal subsistence registration permit, a Designated Harvester permit, or have someone serve as a designated harvester for you. Agencies, staff, and members of the public have expressed concern about alleged and potential abuse by individuals obtaining permits for infants;

Section ____.7—Corrected an inadvertent error that removed the allowance for barter of fish and wildlife. Barter is provided for in ANILCA and had been allowed in the regulations until publication of the rule expanding jurisdiction for subsistence fisheries management (January 8, 1999, 64 FR 1276);

Section ____.11(b)(1)—Removed the unintended requirement that Regional Council member recommendations could only come from nominations made by subsistence users. The Board's recommendations to the Secretaries for appointment to the Regional Councils may come from nominations or from self-applicants;

Section ____11(c)(3)—Clarified that Regional Council recommendations should be supported by substantial evidence, be consistent with recognized principles of fish and wildlife conservation, and not be detrimental to the satisfaction of subsistence needs. This corresponds to the reasons under which the Board may reject a Regional Council recommendation;

Section __.14(b)—Clarified that the Board's authority includes trapping, as well as hunting and fishing;

Section ____.18—Removed duplicative language;

Section ____.19(c)—Revised the statement that implied that any Special Action that is not accepted would be deferred to the next regulatory cycle. Upon further consideration, a proponent may not wish to have his/her request appear in the next cycle because conditions may have changed or other information is now available warranting other action;

Section ____.20—Inserted a requirement for the Board to provide a copy of any Request for Reconsideration for review and recommendation to the Alaska Department of Fish and Game;

Section ____.23(a)—Included the areas of Kenai, Seward, and Homer to the list of non-rural areas. This reflects the Board's May 2001 recision of its May 2000 decision that had determined these communities to be rural; and,

Section ____.23(a)—Corrected the description of one location in the Ketchikan area (Mountain Point versus Mountain Pass) and parts of Gravina Island.

Nothing in this rule is intended to change the underlying rural priority that is set out in Title VIII of ANILCA or otherwise amend the statutory basis of the Federal Subsistence Management Program. Although most sections of these regulations are not being amended, for the purpose of clarity and ease of understanding, the entire text of subparts A and B, and portions of C is being printed. The unpublished sections (portions of subpart C and Sections ____.25, ____.26, ____.27, and ____.28) relate to wildlife, fish, and shellfish regulations that are revised annually. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text is incorporated into 36 CFR part 242 and 50 CFR part 100.

The primary purpose of the interim rulemaking action was to delegate additional authority from the Board to local officials to make conservation decisions. We published an interim rule because there was inadequate time to engage in notice-and-comment rulemaking prior to the start of the spring/summer salmon runs. Many of these runs, particularly on the Yukon and Kuskokwim Rivers, were the lowest in history last year and were expected to be very low again this past season. As such, the ability to make immediate (often within hours) decisions relative to a specific run or pulse of fish was critical in protecting the health of the population while, if at all possible, providing a subsistence opportunity for the rural residents.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance—A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

An environmental assessment has been prepared on the expansion of Federal jurisdiction over fisheries and is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture has determined that the expansion of Federal jurisdiction does not constitute a major Federal action, significantly affecting the human environment and has, therefore, signed a Finding of No Significant Impact.

Compliance with Section 810 of ANILCA—A Section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final Section 810 analysis determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but it does not appear that the program may significantly restrict subsistence uses.

During the environmental assessment process, an evaluation of the effects of this rule was also conducted in accordance with Section 810. This evaluation supports the Secretaries' determination that the final rule will not reach the ''may significantly restrict'' threshold for notice and hearings under ANILCA Section 810(a) for any subsistence resources or uses.

Paperwork Reduction Act—This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. It applies to the

use of public lands in Alaska. The information collection has been approved by OMB, Control Number 1018–0075, which expires July 31, 2003. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Currently, information is being collected by the use of a Federal Subsistence Registration Permit and Designated Harvester Application. The information collected on these two permits establishes whether an applicant qualifies to participate in a Federal subsistence hunt or fishery on public land in Alaska and provides a report of harvest and the location of harvest. The collected information is necessary to determine harvest success, harvest location, and population health in order to make management decisions relative to the conservation of healthy fish or wildlife populations. Additional harvest information is obtained from harvest reports submitted to the State of Alaska. The recordkeeping burden for this aspect of the program is negligible (1 hour or less). This information is accessed via computer data base.

Form	Estimated number of respondents	Completion time for each form (in hours)	Estimated annual response	Estimated annual burden (in hours)	Hourly cost for respondent	Financial burden on respondents
Federal Subsistence Registration Permit.	15,000	¼	15,000	3,750	$20.00	$5.00 each or $75,000 total
Designated Harvester Application	2,000	¼	2,000	500	$20.00	$5.00 each or $10,000 total

The information collected will establish whether the applicant qualifies to participate in a Federal subsistence hunt or fishery on public land in Alaska and will provide a report of harvest and location of harvest.

You may direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 222 ARLSQ, Washington, D.C. 20240; and the Office of Management and Budget, Department of the Interior Desk Officer, 725 17th Street, NW., Washington, D.C. 20503. Additional information collection requirements may be imposed if local advisory committees subject to the Federal Advisory Committee Act are established under subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Clarity of the Rule Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § __.24 Customary and traditional determinations.) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand? Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Economic Effects This rule is not a significant rule subject to OMB review under Executive Order 12866. This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands and subsistence fisheries will continue at essentially the same levels as they presently occur. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, fishing tackle, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, it is estimated that 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound for salmon and $0.58 per pound for other fish, would equate to about $34 million in food value state-wide. We also estimate that 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, would equate to about $6 million in food value state-wide.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant economic impact on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined based on the above figures that this rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and 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.

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or state governments or private entities. The implementation of this rule is by Federal agencies and there is no cost

imposed on any state or local entities or tribal governments.

The Secretaries have determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

Drafting Information—These regulations were drafted by William Knauer under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Taylor Brelseford, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch and Bob Gerhard, Alaska Regional Office, National Park Service; Greg Bos and Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Departments amend Title 36, Part 242, and Title 50, Part 100, of the Code of Federal Regulations, as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. Revise subparts A and B of 36 CFR part 242 and 50 CFR part 100 to read as follows:

Subpart A—General Provisions

Sec.

____.1 Purpose.
____.2 Authority.
____.3 Applicability and scope.
____.4 Definitions.
____.5 Eligibility for subsistence use.
____.6 Licenses, permits, harvest tickets, tags, and reports.
____.7 Restriction on use.
____.8 Penalties.
____.9 Information collection requirements.

Subpart B—Program Structure

____.10 Federal Subsistence Board.
____.11 Regional advisory councils.
____.12 Local advisory committees.
____.13 Board/agency relationships.
____.14 Relationship to State procedures and regulations.
____.15 Rural determination process.
____.16 Customary and traditional use determination process.
____.17 Determining priorities for subsistence uses among rural Alaska residents.
____.18 Regulation adoption process.
____.19 Special actions.
____.20 Request for reconsideration.
____.21 [Reserved]

Subpart A—General Provisions

§ _____.1 Purpose.

The regulations in this part implement the Federal Subsistence Management Program on public lands within the State of Alaska.

§ _____.2 Authority.

The Secretary of the Interior and Secretary of Agriculture issue the regulations in this part pursuant to authority vested in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3101–3126.

§ _____.3 Applicability and scope.

(a) The regulations in this part implement the provisions of Title VIII of ANILCA relevant to the taking of fish and wildlife on public lands in the State of Alaska. The regulations in this part do not permit subsistence uses in Glacier Bay National Park, Kenai Fjords National Park, Katmai National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA, where subsistence taking and uses are prohibited. The regulations in this part do not supersede agency-specific regulations.

(b) The regulations contained in this part apply on all public lands including all non-navigable waters located on these lands, on all navigable and non-navigable water within the exterior boundaries of the following areas, and on inland waters adjacent to the exterior boundaries of the following areas:

(1) Alaska Maritime National Wildlife Refuge;
(2) Alaska Peninsula National Wildlife Refuge;
(3) Aniakchak National Monument and Preserve;
(4) Arctic National Wildlife Refuge;
(5) Becharof National Wildlife Refuge;
(6) Bering Land Bridge National Preserve;
(7) Cape Krusenstern National Monument;
(8) Chugach National Forest, excluding marine waters;
(9) Denali National Preserve and the 1980 additions to Denali National Park;
(10) Gates of the Arctic National Park and Preserve;
(11) Glacier Bay National Preserve;
(12) Innoko National Wildlife Refuge;
(13) Izembek National Wildlife Refuge;
(14) Katmai National Preserve;
(15) Kanuti National Wildlife Refuge;
(16) Kenai National Wildlife Refuge;
(17) Kobuk Valley National Park;
(18) Kodiak National Wildlife Refuge;
(19) Koyukuk National Wildlife Refuge;
(20) Lake Clark National Park and Preserve;
(21) National Petroleum Reserve in Alaska;
(22) Noatak National Preserve;
(23) Nowitna National Wildlife Refuge;
(24) Selawik National Wildlife Refuge;
(25) Steese National Conservation Area;
(26) Tetlin National Wildlife Refuge;
(27) Togiak National Wildlife Refuge;
(28) Tongass National Forest, including Admiralty Island National Monument and Misty Fjords National Monument, and excluding marine waters;
(29) White Mountain National Recreation Area;
(30) Wrangell-St. Elias National Park and Preserve;
(31) Yukon-Charley Rivers National Preserve;
(32) Yukon Delta National Wildlife Refuge;

(33) Yukon Flats National Wildlife Refuge;

(34) All components of the Wild and Scenic River System located outside the boundaries of National Parks, National Preserves, or National Wildlife Refuges, including segments of the Alagnak River, Beaver Creek, Birch Creek, Delta River, Fortymile River, Gulkana River, and Unalakleet River.

(c) The public lands described in paragraph (b) of this section remain subject to change through rulemaking pending a Department of the Interior review of title and jurisdictional issues regarding certain submerged lands beneath navigable waters in Alaska.

§ _____.4 Definitions.

The following definitions apply to all regulations contained in this part:

Agency means a subunit of a cabinet-level Department of the Federal Government having land management authority over the public lands including, but not limited to, the U.S. Fish & Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and USDA Forest Service.

ANILCA means the Alaska National Interest Lands Conservation Act, Public Law 96–487, 94 Stat. 2371, (codified, as amended, in scattered sections of 16 U.S.C. and 43 U.S.C.)

Area, District, Subdistrict, and *Section* mean one of the geographical areas defined in the codified Alaska Department of Fish and Game regulations found in Title 5 of the Alaska Administrative Code.

Barter means the exchange of fish or wildlife or their parts taken for subsistence uses; for other fish, wildlife or their parts; or, for other food or for nonedible items other than money, if the exchange is of a limited and noncommercial nature.

Board means the Federal Subsistence Board as described in § ____.10.

Commissions means the Subsistence Resource Commissions established pursuant to section 808 of ANILCA.

Conservation of healthy populations of fish and wildlife means the maintenance of fish and wildlife resources and their habitats in a condition that assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystem, including the recognition that local rural residents engaged in subsistence uses may be a natural part of that ecosystem; minimizes the likelihood of irreversible or long-term adverse effects upon such populations and species; ensures the maximum practicable diversity of options for the future; and recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population dynamics, and the manipulation of the components of the ecosystem.

Customary trade means exchange for cash of fish and wildlife resources regulated in this part, not otherwise prohibited by Federal law or regulation, to support personal and family needs; and does not include trade which constitutes a significant commercial enterprise.

Customary and traditional use means a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. This use plays an important role in the economy of the community.

FACA means the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (codified as amended, at 5 U.S.C. Appendix II, 1–15).

Family means all persons related by blood, marriage, or adoption or any other person living within the household on a permanent basis.

Federal Advisory Committees or Federal Advisory Committee means the Federal Local Advisory Committees as described in § ____.12

Federal lands means lands and waters and interests therein the title to which is in the United States, including navigable and non-navigable waters in which the United States has reserved water rights.

Fish and wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the carcass or part thereof.

Game Management Unit or GMU means one of the 26 geographical areas listed under game management units in the codified State of Alaska hunting and trapping regulations and the Game Unit Maps of Alaska.

Inland Waters means, for the purposes of this part, those waters located landward of the mean high tide line or the waters located upstream of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea. Inland waters include, but are not limited to, lakes, reservoirs, ponds, streams, and rivers.

Marine Waters means, for the purposes of this part, those waters located seaward of the mean high tide line or the waters located seaward of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea.

Person means an individual and does not include a corporation, company, partnership, firm, association, organization, business, trust, or society.

Public lands or *public land* means:

(1) Lands situated in Alaska which are Federal lands, except—

(i) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(ii) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*, which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(iii) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1618(b).

(2) Notwithstanding the exceptions in paragraphs (1)(i) through (iii) of this definition, until conveyed or interim conveyed, all Federal lands within the boundaries of any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Forest Monument, National Recreation Area, National Conservation Area, new National forest or forest addition shall be treated as public lands for the purposes of the regulations in this part pursuant to section 906(o)(2) of ANILCA.

Regional Councils or *Regional Council* means the Regional Advisory Councils as described in § ___.11.

Regulatory year means July 1 through June 30, except for fish and shellfish where it means March 1 through the last day of February.

Reserved water right(s) means the Federal right to use unappropriated appurtenant water necessary to accomplish the purposes for which a Federal reservation was established. Reserved water rights include nonconsumptive and consumptive uses.

Resident means any person who has his or her primary, permanent home for the previous 12 months within Alaska and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are

not limited to: the address listed on an Alaska Permanent Fund dividend application; an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; affidavit of person or persons who know the individual; voter registration; location of residences owned, rented, or leased; location of stored household goods; residence of spouse, minor children, or dependents; tax documents; or whether the person claims residence in another location for any purpose.

Rural means any community or area of Alaska determined by the Board to qualify as such under the process described in § _____.15.

Secretary means the Secretary of the Interior, except that in reference to matters related to any unit of the National Forest System, such term means the Secretary of Agriculture.

State means the State of Alaska.

Subsistence uses means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

Take or *taking* as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Year means calendar year unless another year is specified.

§ _____.5 Eligibility for subsistence use.

(a) You may take fish and wildlife on public lands for subsistence uses only if you are an Alaska resident of a rural area or rural community. The regulations in this part may further limit your qualifications to harvest fish or wildlife resources for subsistence uses. If you are not an Alaska resident or are a resident of a non-rural area or community listed in §____.23, you may not take fish or wildlife on public lands for subsistence uses under the regulations in this part.

(b) Where the Board has made a customary and traditional use determination regarding subsistence use of a specific fish stock or wildlife population, in accordance with, and as listed in, §____.24, only those Alaskans who are residents of rural areas or communities designated by the Board are eligible for subsistence taking of that population or stock on public lands for subsistence uses under the regulations in this part. If you do not live in one of those areas or communities, you may not take fish or wildlife from that population or stock, on public lands under the regulations in this part.

(c) Where customary and traditional use determinations for a fish stock or wildlife population within a specific area have not yet been made by the Board (e.g., ''no determination''), all Alaskans who are residents of rural areas or communities may harvest for subsistence from that stock or population under the regulations in this part.

(d) The National Park Service may regulate further the eligibility of those individuals qualified to engage in subsistence uses on National Park Service lands in accordance with specific authority in ANILCA, and National Park Service regulations at 36 CFR Part 13.

§ _____.6 Licenses, permits, harvest tickets, tags, and reports.

(a) If you wish to take fish and wildlife on public lands for subsistence uses, you must be an eligible rural Alaska resident and:

(1) Possess the pertinent valid Alaska resident hunting and trapping licenses (no license required to take fish or shellfish, but you must be an Alaska resident) unless Federal licenses are required or unless otherwise provided for in subpart D of this part;

(2) Possess and comply with the provisions of any pertinent Federal permits (Federal Subsistence Registration Permit or Federal Designated Harvester Permit) required by subpart D of this part; and

(3) Possess and comply with the provisions of any pertinent permits, harvest tickets, or tags required by the State unless any of these documents or individual provisions in them are superseded by the requirements in subpart D of this part.

(b) In order to receive a Federal Subsistence Registration Permit or Federal Designated Harvester Permit or designate someone to harvest fish or wildlife for you under a Federal Designated Harvester Permit, you must be old enough to have reasonably harvested that species yourself (or under the guidance of an adult.)

(c) If you have been awarded a permit to take fish and wildlife, you must have that permit in your possession during the taking and must comply with all requirements of the permit and the regulations in this section pertaining to validation and reporting and to regulations in subpart D of this part pertaining to methods and means, possession and transportation, and utilization. Upon the request of a State or Federal law enforcement agent, you must also produce any licenses, permits, harvest tickets, tags, or other documents required by this section. If you are engaged in taking fish and wildlife under the regulations in this part, you must allow State or Federal law enforcement agents to inspect any apparatus designed to be used, or capable of being used to take fish or wildlife, or any fish or wildlife in your possession.

(d) You must validate the harvest tickets, tags, permits, or other required documents before removing your kill from the harvest site. You must also comply with all reporting provisions as set forth in subpart D of this part.

(e) If you take fish and wildlife under a community harvest system, you must report the harvest activity in accordance with regulations specified for that community in subpart D of this part, and as required by any applicable permit conditions. Individuals may be responsible for particular reporting requirements in the conditions permitting a specific community's harvest. Failure to comply with these conditions is a violation of the regulations in this part. Community harvests are reviewed annually under the regulations in subpart D of this part.

(f) You may not make a fraudulent application for Federal or State licenses, permits, harvest tickets or tags or intentionally file an incorrect harvest report.

§ _____.7 Restriction on use.

(a) You may not use fish or wildlife or their parts, taken pursuant to the regulations in this part, unless provided for in this part.

(b) You may not exchange in customary trade or sell fish or wildlife or their parts, taken pursuant to the regulations in this part, unless provided for in this part.

(c) You may barter fish or wildlife or their parts, taken pursuant to the regulations in this part, unless restricted in §§____.25, ____.26, ____.27, or ____.28.

§ _____.8 Penalties.

If you are convicted of violating any provision of 50 CFR Part 100 or 36 CFR Part 242, you may be punished by a fine or by imprisonment in accordance with the penalty provisions applicable to the public land where the violation occurred.

§ _____.9 Information collection requirements.

(a) The rules in this part contain information collection requirements subject to Office of Management and

Budget (OMB) approval under 44 U.S.C. 3501–3520. They apply to fish and wildlife harvest activities on public lands in Alaska. Subsistence users will not be required to respond to an information collection request unless a valid OMB number is displayed on the information collection form.

(1) Section ____.6, Licenses, permits, harvest tickets, tags, and reports. The information collection requirements contained in §____.6 (Federal Subsistence Registration Permit or Federal Designated Harvester Permit forms) provide for permit-specific subsistence activities not authorized through the general adoption of State regulations. Identity and location of residence are required to determine if you are eligible for a permit and a report of success is required after a harvest attempt. These requirements are not duplicative with the requirements of paragraph (a)(3) of this section. The regulations in §——.6 require this information before a rural Alaska resident may engage in subsistence uses on public lands. The Department estimates that the average time necessary to obtain and comply with this permit information collection requirement is 0.25 hours.

(2) Section ____.20, Request for reconsideration. The information collection requirements contained in §——.20 provide a standardized process to allow individuals the opportunity to appeal decisions of the Board. Submission of a request for reconsideration is voluntary but required to receive a final review by the Board. We estimate that a request for reconsideration will take 4 hours to prepare and submit.

(3) The remaining information collection requirements contained in this part imposed upon subsistence users are those adopted from State regulations. These collection requirements would exist in the absence of Federal subsistence regulations and are not subject to the Paperwork Reduction Act. The burden in this situation is negligible, and information gained from these reports is systematically available to Federal managers by routine computer access requiring less than 1 hour.

(b) You may direct comments on the burden estimate or any other aspect of the burden estimate to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, N.W., MS 222 ARLSQ, Washington, D.C. 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, D.C. 20503. Additional information requirements may be imposed if Local Advisory Committees or additional Regional Councils, subject to the Federal Advisory Committee Act (FACA), are established under subpart B of this part. Such requirements will be submitted to OMB for approval prior to their implementation.

Subpart B—Program Structure

§_____.10 Federal Subsistence Board.

(a) The Secretary of the Interior and Secretary of Agriculture hereby establish a Federal Subsistence Board, and assign it responsibility for administering the subsistence taking and uses of fish and wildlife on public lands, and the related promulgation and signature authority for regulations of subparts C and D of this part. The Secretaries, however, retain their existing authority to restrict or eliminate hunting, fishing, or trapping activities which occur on lands or waters in Alaska other than public lands when such activities interfere with subsistence hunting, fishing, or trapping on the public lands to such an extent as to result in a failure to provide the subsistence priority.

(b) *Membership.* (1) The voting members of the Board are: a Chair to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; Alaska Regional Director, National Park Service; Alaska Regional Forester, USDA Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Regional Director, Bureau of Indian Affairs. Each member of the Board may appoint a designee.

(2) [Reserved]

(c) Liaisons to the Board are: a State liaison, and the Chairman of each Regional Council. The State liaison and the Chairman of each Regional Council may attend public sessions of all Board meetings and be actively involved as consultants to the Board.

(d) *Powers and duties.* (1) The Board shall meet at least twice per year and at such other times as deemed necessary. Meetings shall occur at the call of the Chair, but any member may request a meeting.

(2) A quorum consists of four members.

(3) No action may be taken unless a majority of voting members are in agreement.

(4) The Board is empowered, to the extent necessary, to implement Title VIII of ANILCA, to:

(i) Issue regulations for the management of subsistence taking and uses of fish and wildlife on public lands;

(ii) Determine which communities or areas of the State are rural or non-rural;

(iii) Determine which rural Alaska areas or communities have customary and traditional subsistence uses of specific fish and wildlife populations;

(iv) Allocate subsistence uses of fish and wildlife populations on public lands;

(v) Ensure that the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes;

(vi) Close public lands to the non-subsistence taking of fish and wildlife;

(vii) Establish priorities for the subsistence taking of fish and wildlife on public lands among rural Alaska residents;

(viii) Restrict or eliminate taking of fish and wildlife on public lands;

(ix) Determine what types and forms of trade of fish and wildlife taken for subsistence uses constitute allowable customary trade;

(x) Authorize the Regional Councils to convene;

(xi) Establish a Regional Council in each subsistence resource region and recommend to the Secretaries, appointees to the Regional Councils, pursuant to the FACA;

(xii) Establish Federal Advisory Committees within the subsistence resource regions, if necessary, and recommend to the Secretaries that members of the Federal Advisory Committees be appointed from the group of individuals nominated by rural Alaska residents;

(xiii) Establish rules and procedures for the operation of the Board, and the Regional Councils;

(xiv) Review and respond to proposals for regulations, management plans, policies, and other matters related to subsistence taking and uses of fish and wildlife;

(xv) Enter into cooperative agreements or otherwise cooperate with Federal agencies, the State, Native organizations, local governmental entities, and other persons and organizations, including international entities to effectuate the purposes and policies of the Federal subsistence management program;

(xvi) Develop alternative permitting processes relating to the subsistence taking of fish and wildlife to ensure continued opportunities for subsistence;

(xvii) Evaluate whether hunting, fishing, or trapping activities which occur on lands or waters in Alaska other than public lands interfere with

subsistence hunting, fishing, or trapping on the public lands to such an extent as to result in a failure to provide the subsistence priority, and after appropriate consultation with the State of Alaska, the Regional Councils, and other Federal agencies, make a recommendation to the Secretaries for their action;

(xviii) Identify, in appropriate specific instances, whether there exists additional Federal reservations, Federal reserved water rights or other Federal interests in lands or waters, including those in which the United States holds less than a fee ownership, to which the Federal subsistence priority attaches, and make appropriate recommendation to the Secretaries for inclusion of those interests within the Federal Subsistence Management Program; and

(xix) Take other actions authorized by the Secretaries to implement Title VIII of ANILCA.

(5) The Board may implement one or more of the following harvest and harvest reporting or permit systems:

(i) The fish and wildlife is taken by an individual who is required to obtain and possess pertinent State harvest permits, tickets, or tags, or Federal permit (Federal Subsistence Registration Permit);

(ii) A qualified subsistence user may designate another qualified subsistence user (by using the Federal Designated Harvester Permit) to take fish and wildlife on his or her behalf;

(iii) The fish and wildlife is taken by individuals or community representatives permitted (via a Federal Subsistence Registration Permit) a one-time or annual harvest for special purposes including ceremonies and potlatches; or

(iv) The fish and wildlife is taken by representatives of a community permitted to do so in a manner consistent with the community's customary and traditional practices.

(6) The Board may delegate to agency field officials the authority to set harvest and possession limits, define harvest areas, specify methods or means of harvest, specify permit requirements, and open or close specific fish or wildlife harvest seasons within frameworks established by the Board.

(7) The Board shall establish a Staff Committee for analytical and administrative assistance composed of members from the U.S. Fish and Wildlife Service, National Park Service, U.S. Bureau of Land Management, Bureau of Indian Affairs, and USDA Forest Service. A U.S. Fish and Wildlife Service representative shall serve as Chair of the Staff Committee.

(8) The Board may establish and dissolve additional committees as necessary for assistance.

(9) The U.S. Fish and Wildlife Service shall provide appropriate administrative support for the Board.

(10) The Board shall authorize at least two meetings per year for each Regional Council.

(e) *Relationship to Regional Councils.* (1) The Board shall consider the reports and recommendations of the Regional Councils concerning the taking of fish and wildlife on public lands within their respective regions for subsistence uses. The Board may choose not to follow any Regional Council recommendation which it determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, would be detrimental to the satisfaction of subsistence needs, or in closure situations, for reasons of public safety or administration or to assure the continued viability of a particular fish or wildlife population. If a recommendation is not adopted, the Board shall set forth the factual basis and the reasons for the decision, in writing, in a timely fashion.

(2) The Board shall provide available and appropriate technical assistance to the Regional Councils.

§_____.11 Regional advisory councils.

(a) The Board shall establish a Regional Council for each subsistence resource region to participate in the Federal subsistence management program. The Regional Councils shall be established, and conduct their activities, in accordance with the FACA. The Regional Councils shall provide a regional forum for the collection and expression of opinions and recommendations on matters related to subsistence taking and uses of fish and wildlife resources on public lands. The Regional Councils shall provide for public participation in the Federal regulatory process.

(b) *Establishment of Regional Councils; membership.* (1) The number of members for each Regional Council shall be established by the Board, and shall be an odd number. A Regional Council member must be a resident of the region in which he or she is appointed and be knowledgeable about the region and subsistence uses of the public lands therein. The Board shall accept nominations and make recommendations to the Secretaries for representatives on the Regional Councils. Appointments to the Regional Councils shall be made by the Secretaries.

(2) Regional Council members shall serve 3-year terms and may be reappointed. Initial members shall be appointed with staggered terms up to 3 years.

(3) The Chair of each Regional Council shall be elected by the applicable Regional Council, from its membership, for a 1-year term and may be reelected.

(c) *Powers and Duties.* (1) The Regional Councils are authorized to:

(i) Hold public meetings related to subsistence uses of fish and wildlife within their respective regions, after the Chair of the Board or the designated Federal Coordinator has called the meeting and approved the meeting agenda;

(ii) Elect officers;

(iii) Review, evaluate, and make recommendations to the Board on proposals for regulations, policies, management plans, and other matters relating to the subsistence take of fish and wildlife under the regulations in this part within the region;

(iv) Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(v) Encourage local and regional participation, pursuant to the provisions of the regulations in this part in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(vi) Prepare and submit to the Board an annual report containing—

(A) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(B) An evaluation of current and anticipated subsistence needs for fish and wildlife populations from the public lands within the region;

(C) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to the public lands; and

(D) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy;

(vii) Appoint members to each Subsistence Resource Commission within their region in accordance with the requirements of Section 808 of ANILCA;

(viii) Make recommendations on determinations of customary and traditional use of subsistence resources;

(ix) Make recommendations on determinations of rural status;

(x) Make recommendations regarding the allocation of subsistence uses among

rural Alaska residents pursuant to §____.17;

(xi) Develop proposals pertaining to the subsistence taking and use of fish and wildlife under the regulations in this part, and review and evaluate such proposals submitted by other sources;

(xii) Provide recommendations on the establishment and membership of Federal Advisory Committees.

(2) The Regional Councils shall:

(i) Operate in conformance with the provisions of FACA and comply with rules of operation established by the Board;

(ii) Perform other duties specified by the Board.

(3) The Regional Council recommendations to the Board should be supported by substantial evidence, be consistent with recognized principles of fish and wildlife conservation, and not be detrimental to the satisfaction of subsistence needs.

§_____.12 Local advisory committees.

(a) The Board shall establish such local Federal Advisory Committees within each region as necessary at such time that it is determined, after notice and hearing and consultation with the State, that the existing State fish and game advisory committees do not adequately provide advice to, and assist, the particular Regional Council in carrying out its function as set forth in §____.11.

(b) Local Federal Advisory Committees, if established by the Board, shall operate in conformance with the provisions of the FACA, and comply with rules of operation established by the Board.

§_____.13 Board/agency relationships.

(a) *General.* (1) The Board, in making decisions or recommendations, shall consider and ensure compliance with specific statutory requirements regarding the management of resources on public lands, recognizing that the management policies applicable to some public lands may entail methods of resource and habitat management and protection different from methods appropriate for other public lands.

(2) The Board shall issue regulations for subsistence taking of fish and wildlife on public lands. The Board is the final administrative authority on the promulgation of subparts C and D regulations relating to the subsistence taking of fish and wildlife on public lands.

(3) Nothing in the regulations in this part shall enlarge or diminish the authority of any agency to issue regulations necessary for the proper management of public lands under their jurisdiction in accordance with ANILCA and other existing laws.

(b) Section 808 of ANILCA establishes National Park and Park Monument Subsistence Resource Commissions. Nothing in the regulations in this part affects the duties or authorities of these commissions.

§_____.14 Relationship to State procedures and regulations.

(a) State fish and game regulations apply to public lands and such laws are hereby adopted and made a part of the regulations in this part to the extent they are not inconsistent with, or superseded by, the regulations in this part.

(b) The Board may close public lands to hunting, trapping, or fishing, or take actions to restrict the taking of fish and wildlife when necessary to conserve healthy populations of fish and wildlife, continue subsistence uses of such populations, or pursuant to other applicable Federal law. The Board may review and adopt State openings, closures, or restrictions which serve to achieve the objectives of the regulations in this part.

(c) The Board may enter into agreements with the State in order to coordinate respective management responsibilities.

(d) Petition for repeal of subsistence rules and regulations. (1) The State of Alaska may petition the Secretaries for repeal of the subsistence rules and regulations in this part when the State has enacted and implemented subsistence management and use laws which:

(i) Are consistent with sections 803, 804, and 805 of ANILCA; and

(ii) Provide for the subsistence definition, preference, and participation specified in sections 803, 804, and 805 of ANILCA.

(2) The State's petition shall:

(i) Be submitted to the Secretary of the Interior, U.S. Department of the Interior, Washington, D.C. 20240, and the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C. 20240;

(ii) Include the entire text of applicable State legislation indicating compliance with sections 803, 804, and 805 of ANILCA; and

(iii) Set forth all data and arguments available to the State in support of legislative compliance with sections 803, 804, and 805 of ANILCA.

(3) If the Secretaries find that the State's petition contains adequate justification, a rulemaking proceeding for repeal of the regulations in this part will be initiated. If the Secretaries find that the State's petition does not contain adequate justification, the petition will be denied by letter or other notice, with a statement of the ground for denial.

§_____.15 Rural determination process.

(a) The Board shall determine if an area or community in Alaska is rural. In determining whether a specific area of Alaska is rural, the Board shall use the following guidelines:

(1) A community or area with a population of 2,500 or less shall be deemed to be rural unless such a community or area possesses significant characteristics of a non-rural nature, or is considered to be socially and economically a part of an urbanized area.

(2) Communities or areas with populations above 2,500 but not more than 7,000 will be determined to be rural or non-rural.

(3) A community with a population of more than 7,000 shall be presumed non-rural, unless such a community or area possesses significant characteristics of a rural nature.

(4) Population data from the most recent census conducted by the United States Bureau of Census as updated by the Alaska Department of Labor shall be utilized in this process.

(5) Community or area characteristics shall be considered in evaluating a community's rural or non-rural status. The characteristics may include, but are not limited to:

(i) Use of fish and wildlife;

(ii) Development and diversity of the economy;

(iii) Community infrastructure;

(iv) Transportation; and

(v) Educational institutions.

(6) Communities or areas which are economically, socially, and communally integrated shall be considered in the aggregate.

(b) The Board shall periodically review rural determinations. Rural determinations shall be reviewed on a 10-year cycle, commencing with the publication of the year 2000 U.S. census. Rural determinations may be reviewed out-of-cycle in special circumstances. Once the Board makes a determination that a community has changed from rural to non-rural, a waiting period of 5 years shall be required before the non-rural determination becomes effective.

(c) Current determinations are listed at §____.23.

§_____.16 Customary and traditional use determination process.

(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These

determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:

(1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;

(2) A pattern of use recurring in specific seasons for many years;

(3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;

(4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from, the community or area;

(5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;

(6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values, and lore from generation to generation;

(7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and

(8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.

(d) Current determinations are listed in § ____.24.

§ _____.17 Determining priorities for subsistence uses among rural Alaska residents.

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

(1) Customary and direct dependence upon the populations as the mainstay of livelihood;

(2) Local residency; and

(3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the criteria in paragraphs (b)(1) through (3) of this section.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

§ _____.18 Regulation adoption process.

(a) Proposals for changes to the Federal subsistence regulations in subparts C or D of this part shall be accepted by the Board according to a published schedule. The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or subpart D regulations over a period of years. The Board shall develop and publish proposed regulations in the **Federal Register** and publish notice in local newspapers. Comments on the proposed regulations in the form of proposals shall be distributed for public review.

(1) Proposals shall be made available for at least a thirty (30) day review by the Regional Councils. Regional Councils shall forward their recommendations on proposals to the Board. Such proposals with recommendations may be submitted in the time period as specified by the Board or as a part of the Regional Council's annual report described in § ____.11, whichever is earlier.

(2) The Board shall publish notice throughout Alaska of the availability of proposals received.

(3) The public shall have at least thirty (30) days to review and comment on proposals.

(4) After the comment period the Board shall meet to receive public testimony and consider the proposals. The Board shall consider traditional use patterns when establishing harvest levels and seasons, and methods and means. The Board may choose not to follow any recommendation which the Board determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation approved by a Regional Council is not adopted by the Board, the Board shall set forth the factual basis and the reasons for its decision in writing to the Regional Council.

(5) Following consideration of the proposals the Board shall publish final regulations pertaining to subparts C and D of this part in the **Federal Register**.

(b) Proposals for changes to subparts A and B of this part shall be accepted by the Secretary of the Interior in accordance with 43 CFR part 14.

§ _____.19 Special actions.

(a) The Board may restrict, close, or reopen the taking of fish and wildlife for non-subsistence uses on public lands when necessary to assure the continued viability of a particular fish or wildlife population, to continue subsistence uses of a fish or wildlife population, or for reasons of public safety or administration.

(b) The Board may open, close, or restrict subsistence uses of a particular fish or wildlife population on public lands to assure the continued viability of a fish or wildlife population, to continue subsistence uses of a fish or wildlife population, or for reasons of public safety or administration.

(c) The Board will accept a request for a change in seasons, methods and means, harvest limits and/or restrictions on harvest under this § _____.19 only if there are extenuating circumstances necessitating a regulatory change before the next annual subpart D proposal cycle. Extenuating circumstances include unusual and significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence uses. Requests for Special Action that do not meet these conditions will be rejected; however, a rejected Special Action request will be deferred, if appropriate, to the next annual regulatory proposal cycle for consideration, after coordination with the submitter. In general, changes to Customary and Traditional Use Determinations will only be considered through the annual subpart C proposal cycle.

(d) In an emergency situation, the Board may immediately open, close,

liberalize, or restrict subsistence uses of fish and wildlife on public lands, or close or restrict non-subsistence uses of fish and wildlife on public lands, if necessary to assure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons. Prior to implementing an emergency action, the Board shall consult with the State. The emergency action shall be effective when directed by the Board, may not exceed 60 days, and may not be extended unless it is determined by the Board, after notice and public hearing, that such action should be extended. The Board shall, in a timely manner, provide notice via radio announcement or personal contact of the emergency action and shall publish notice and reasons justifying the emergency action in newspapers of any area affected, and in the **Federal Register** thereafter.

(e) After consultation with the State, the appropriate Regional Advisory Council(s), and adequate notice and public hearing, the Board may make or direct a temporary change to close, open, or adjust the seasons, to modify the harvest limits, or to modify the methods and means of harvest for subsistence uses of fish and wildlife populations on public lands. An affected rural resident, community, Regional Council, or administrative agency may request a temporary change in seasons, harvest limits, or methods or means of harvest. In addition, a temporary change may be made only after the Board determines that the proposed temporary change will not interfere with the conservation of healthy fish and wildlife populations, will not be detrimental to the long-term subsistence use of fish or wildlife resources, and is not an unnecessary restriction on non-subsistence users. The decision of the Board shall be the final administrative action. The temporary change shall be effective when directed by the Board following notice in the affected area(s). This notice may include publication in newspapers or announcement on local radio stations. The Board shall publish notice and reasons justifying the temporary action in the **Federal Register** thereafter. The length of any temporary change shall be confined to the minimum time period or harvest limit determined by the Board to be necessary to satisfy subsistence uses. A temporary opening or closure will not extend beyond the regulatory year for which it is promulgated.

(f) Regulations authorizing any individual agency to direct temporary or emergency closures on public lands managed by the agency remain unaffected by the regulations in this part, which authorize the Board to make or direct restrictions, closures, or temporary changes for subsistence uses on public lands.

(g) You may not take fish and wildlife in violation of a restriction, closure, opening, or temporary change authorized by the Board.

§ _____.20 Request for reconsideration.

(a) Regulations in subparts C and D of this part published in the **Federal Register** are subject to requests for reconsideration.

(b) Any aggrieved person may file a request for reconsideration with the Board.

(c) To file a request for reconsideration, you must notify the Board in writing within sixty (60) days of the effective date or date of publication of the notice, whichever is earlier, for which reconsideration is requested.

(d) It is your responsibility to provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. You must include the following information in your request for reconsideration:

(1) Your name, and mailing address;

(2) The action which you request be reconsidered and the date of **Federal Register** publication of that action;

(3) A detailed statement of how you are adversely affected by the action;

(4) A detailed statement of the facts of the dispute, the issues raised by the request, and specific references to any law, regulation, or policy that you believe to be violated and your reason for such allegation;

(5) A statement of how you would like the action changed.

(e) Upon receipt of a request for reconsideration, the Board shall transmit a copy of such request to any appropriate Regional Council and the Alaska Department of Fish and Game (ADFG) for review and recommendation. The Board shall consider any Regional Council and ADFG recommendations in making a final decision.

(f) If the request is justified, the Board shall implement a final decision on a request for reconsideration after compliance with 5 U.S.C. 551–559 (APA).

(g) If the request is denied, the decision of the Board represents the final administrative action.

§ _____.21 [Reserved]

Subpart C—Board Determinations

3. Amend subpart C of 36 CFR part 242 and 50 CFR part 100 by revising §§ ____.22 and ____.23 to read as follows:

§ _____.22 Subsistence resource regions.

(a) The Board hereby designates the following areas as subsistence resource regions:

(1) Southeast Region;
(2) Southcentral Region;
(3) Kodiak/Aleutians Region;
(4) Bristol Bay Region;
(5) Yukon-Kuskokwim Delta Region;
(6) Western Interior Region;
(7) Seward Peninsula Region;
(8) Northwest Arctic Region;
(9) Eastern Interior Region;
(10) North Slope Region.

(b) You may obtain maps delineating the boundaries of subsistence resource regions from the U.S. Fish and Wildlife Service, 3601 C Street, Suite 1030, Anchorage, Alaska 99503.

§ _____.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § ____.15 except the following:

Adak;
Fairbanks North Star Borough;
Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek;
Juneau area—including Juneau, West Juneau, and Douglas;
Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch;
Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island;
Municipality of Anchorage;
Seward area—including Seward and Moose Pass, Valdez, and
Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenberg Butte.

You may obtain maps delineating the boundaries of non-rural areas from the U.S. Fish and Wildlife Service.

(b) [Reserved]

4. Amend § ____.24 by revising paragraph (a) introductory text to read as follows:

§ _____.24 Customary and traditional use determinations.

(a) The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Fish & Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. When there is a determination for specific communities or areas of residence in a Unit, all other communities not listed for that species in that Unit have no Federal subsistence priority for that species in that Unit. If no determination has been made for a species in a Unit, all rural Alaska residents are eligible to harvest fish or wildlife under this part.

* * * * *

Dated: April 19, 2002.

Gale Norton,

Secretary of the Interior.

Dated: January 14, 2002.

Dennis E. Bschor,

Regional Forester, USDA—Forest Service.

[FR Doc. 02–11319 Filed 5–6–02; 8:45 am]

BILLING CODE 3410–11–P

POSTAL SERVICE

39 CFR Part 111

Realignment of Buffalo and Pittsburgh Postal Facilities for Deposit of DBMC Rate Standard Mail and Package Services Machinable Parcels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service requiring mailers to deposit, at the Pittsburgh Bulk Mail Center (BMC), Standard Mail machinable parcels and Package Services machinable parcels, currently required to be taken to the Buffalo, New York, Auxiliary Service Facility (ASF), in order to claim destination bulk mail center (DBMC) rates. This mail, where applicable, will be required to be zoned from the Pittsburgh BMC.

DATES: *Effective.* Compliance is optional as of May 7, 2002. Compliance will be required on January 5, 2003.

FOR FURTHER INFORMATION CONTACT: OB Akinwole, (703) 292–3643 or Cheryl Beller (703) 292–3747.

SUPPLEMENTARY INFORMATION: On January 17, 2002, the Postal Service published, for public comment, a notice in the **Federal Register** (67 FR 2388), proposing to realign permissible points for mailer deposit of Standard Mail machinable parcels and Package Services machinable parcels currently required, by DMM Standard, to be entered at the Buffalo, New York, Auxiliary Service Facility (ASF) in order to be claimed at destination bulk mail center (DBMC) rates.

Mailers will now be required to enter mail, addressed for delivery within the ZIP Code range of the Buffalo ASF service area, as defined for the appropriate class of mail in DMM Exhibit E650.5.1 and Exhibit E751.1.3, at the Pittsburgh BMC to claim the DBMC rates. As part of this final rule, all machinable and nonmachinable parcels (Parcel Post, Parcel Select, and Bound Printed Matter) deposited at the Pittsburgh BMC are also required to be zoned from Pittsburgh using Postal Service zone chart 150. As an option, mailers may also deposit nonmachinable parcels for the Buffalo ASF service area ZIP Codes listed in DMM labeling list L602 at the Pittsburgh BMC, provided that these nonmachinable parcels are commingled in bedloads with the DBMC rate machinable parcels. These nonmachinable parcels would also be eligible for the DBMC rates. Otherwise, nonmachinable parcels must continue to be deposited at the Buffalo ASF in order to be eligible for the DBMC rates. Barcoded machinable parcels for the Buffalo ASF service will be eligible for the parcel barcode discount when entered at the Pittsburgh BMC. Under this final rule, entry of Standard Mail, Parcel Select, and Bound Printed Matter machinable parcels sorted to the 5-digit ZIP Codes within the Buffalo sectional center facility (SCF) service area, as defined in DMM L005, would continue to be required to be deposited at the Buffalo SCF in order to qualify for the destination sectional center facility (DSCF) rate. Standard Mail machinable parcels claimed at DSCF rates and entered at Buffalo will continue to be eligible for a parcel barcode discount.

Currently, all machinable parcels entered at the Buffalo ASF are sorted manually by the Postal Service to the first three digits of the delivery address ZIP Codes. Those parcels destined to addresses within the Buffalo ASF service are either further sorted to the Buffalo SCF or transported to SCFs in Rochester, Syracuse, Elmira, and Utica. At the SCFs, the parcels are sorted by 5-digit ZIP Code to the associated delivery offices and subsequently transported to those delivery offices.

In contrast to this manual operation in Buffalo, the Pittsburgh BMC sorts machinable parcels on parcel sorting machines (PSMs) and finalizes the parcels to 5-digit ZIP Codes in one or two passes. Parcels destined for the Buffalo ASF service area are then transported directly from the Pittsburgh BMC to the appropriate SCFs. This rule change will minimize more costly and slower manual processing and provide more direct transportation of such parcels. The Postal Service believes that this realignment of ZIP Codes for DBMC rate eligibility between between the Pittsburgh BMC and the Buffalo ASF will provide consistent customer service by eliminating at least one step in the transportation process.

This rule change will eliminate any confusion concerning the applicable standards for the deposit of DBMC machinable parcels in the affected service areas. This final rule contains the DMM standards adopted by the Postal Service after review of the comments that were submitted.

Evaluation of Comments From the Proposed Rule

The Postal Service received written comments on the January 17 proposed rule from three mailers and one mailer association.

One commenter questioned the accuracy of the statement in the proposed rule that ''current records indicate that more than three years have passed since the Buffalo ASF has received any drop shipments.''

The Postal Service acknowledges that the statement should have read ''current records indicate that more than three years have passed since the Buffalo ASF has received any drop shipments of machinable parcels.''

The same commenter suggested that the exception to allow mailers to divert machinable parcels from the Buffalo ASF to the Pittsburgh BMC is the real issue to be addressed. According to this commenter, mailers not party to the exception should not be penalized.

This final rule formally designates the Pittsburgh BMC as the appropriate deposit point for machinable parcels claimed at DBMC rates destined for the Buffalo ASF service area. Moreover, the Postal Service believes that this change will ensure a fair and uniform rate application to all mailers depositing machinable parcels at the Pittsburgh BMC. Many of those mailers have been depositing machinable parcels destined

for the Buffalo ASF service area and zoning and rating those parcels from the Pittsburgh BMC.

Another commenter implied that the proposed changes stem from possible mismanagement of operational resources at the Buffalo ASF, including inappropriate mail processing equipment. The commenter further states that the Postal Service is imposing increased DBMC rates on customers because of its own inadequacies. The commenter believes that the proposed changes are tantamount to a ''poorly concealed rate increase.''

The changes announced in this final rule are not the result of mismanagement or inappropriate resource allocation but rather a reflection of effective cost management for mailers and the Postal Service. In addition, the changes in this final rule are not an attempt to increase rates by use of a technical regulatory change. Part of this management is the long-term strategy of realigning the Postal Service processing and transportation networks as a viable means to raise productivity, stabilize costs, and minimize postage rate increases.

The diversion to the Pittsburgh BMC of machinable parcels destined for the Buffalo ASF service area is not the outcome of recent redirection of that volume by the Buffalo ASF. Almost from the inception of the DBMC entry rates on February 24, 1991, the majority of dropship parcel mailers have been depositing at the Pittsburgh BMC machinable parcels and some nonmachinable parcels destined for the Buffalo ASF. In fact, about 31 percent of the current parcel volume processed at the Pittsburgh BMC is destined for the Buffalo ASF. This large percentage is not surprising because western New York is not an originating area for large parcel shippers. As a result, the majority of parcel shippers who have parcels destined for the Buffalo ASF are also likely to have parcels destined for the Pittsburgh BMC service area.

Based on the expected additional costs that the commenters or their clients may incur, all four commenters objected to the realignment, particularly the requirement to zone mail entered at the Pittsburgh BMC using the Pittsburgh zone chart instead of the Buffalo zone chart. Alternatives suggested included extending the effective date, either to the end of calendar year 2002, or the beginning of calendar year 2003, and developing an optional sort rate for packages presorted and containerized by 3-digit ZIP Codes prefixes and entered at the Buffalo ASF for cross-docking to SCFs. The comment suggesting the development of an optional sort rate for packages presorted and containized by 3-digit ZIP Code prefixes and entered at the Buffalo ASF for cross-docking to SCFs is beyond the scope of this rulemaking and is not addressed in this final rule.

The Postal Service is indeed concerned about any financial burden that this final rule will place on parcel shippers. As a consequences, the Postal Service will delay required implementation of these changes to January 5, 2003. This delay should reduce any financial impact on mailers this year and, at the same time provide sufficient time to plan for significant or individual changes that would affect their current operations.

One commenter noted that zoning Buffalo Parcel Select from Pittsburgh will raise customer rates by $0.89 per parcel. This commenter implied that DBMC rates as a whole are going up faster than DSCF and DDU rates frequently used by large package consolidators, leading the commenter to believe that the intent of the Postal Service is to drive customers to competitors.

On one hand, the Postal Service does acknowledge that there will be some adjustments in postage paid because of the requirement that mailers zone machinable parcels destined for the Buffalo ASF from the Pittsburgh BMC. Not all increased costs, however, are attributed solely to postage. Depending on the size, weight, and distance of the parcel as well as associated transportation costs, mailers can benefit from the changes in this final rule because they are permitted to use one facility rather than two for the deposit of their mail for the same geographic area. In essence, they can benefit from reduced transportation costs.

Although both the DDU and the DSCF rates for Parcel Select will have increases effective with the June 30, 2001, implementation of R2001–1 as announced in the **Federal Register** on April 16, 2001, adjustments were made to the DBMC rates to reflect increased postal costs for handling. The Postal Service introduced a separate 1-pound Parcel Post rate to mitigate increases in rates for lighter weight parcels. Increases in the DBMC rates are not part of any strategy to drive customers to competitors but to provide universal service within the guidelines of the standards that govern the Postal Service. Furthermore, customers who use package consolidators actually pay those consolidators higher rates for these services than the published DDU and DSCF rates.

After full consideration of the comments received the Postal Service believes it appropriate to adopt, without revisions, the proposed changes in eligibility requirements.

The Domestic Mail Manual is revised as follows: These changes are incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative Practice and Procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend Domestic Mail Manual (DMM) modules E and L as follows:

Domestic Mail Manual (DMM)

E Eligibility

* * * * *

E600 Standard Mail

* * * * *

E650 Destination Entry

* * * * *

5.0 DBMC DISCOUNT

5.1 Definition

[Amend Exhibit 5.1 by showing realignment of eligible destination ZIP Codes for machinable parcels for the Buffalo ASF and Pittsburgh BMC entry facilities to read as follows:]

Eligible destination ZIP Codes	Entry facility
* * * * * *	
130–136, 140–149 [Except machinable parcels]	ASF BUFFALO NY 140
150–168, 260–266, 439–447 [Except machinable parcels]	BMC PITTSBURGH PA 15195
130–136, 140–168, 260–266, 439–447 [Machinable parcels only or machinable parcels combined with bedloaded nonmachinable parcels].	BMC PITTSBURGH PA 15195

Eligible destination ZIP Codes	Entry facility
* * * * *	*

* * * * *

5.5 Additional Standards for Machinable Parcels

[Amend 5.5a by adding the phrase ''except as shown in Exhibit 5.1'' to the second sentence to explain when sortation of parcels to ASFs is optional to read as follows:]

* * * * *

a. Destination BMC/ASF Containers. Machinable parcels pallelized under M045 or sacked under M610 may be sorted to destination BMCs under L601 or to destination BMCs and ASFs under L601 and L602. When machinable parcels are sorted to both destination BMCs and ASFs under L601 and L602, they qualify for DBMC rates under 5.2. Except as provided in Exhibit 5.1, sortation of machinable parcels to ASFs is optional but is required for the ASF mail to be eligible for DBMC rates. * * *

* * * * *

E700 Package Services

* * * * *

E750 Destination Entry

E751 Parcel Select

* * * * *

1.0 BASIC STANDARDS

* * * * *

1.3 Definition

[Amend Item and Exhibit 1.3 by showing realignment of eligible destination ZIP Codes for machinable parcels for the Buffalo ASF and Pittsburgh BMC entry facilities to read as follows:]

* * * * *

b. Except as provided in Exhibit 1.3, pieces deposited at each BMC or ASF must be addressed for delivery within the ZIP Code range of that facility.

Eligible destination ZIP Codes	Entry facility
* * * * *	*
130–136, 140–149 [Except machinable parcels]	ASF BUFFALO NY 140
150–168, 260–266, 439–447 [Except machinable parcels]	BMC PITTSBURGH PA 15195
130–136, 140–168, 260–266, 439–447 [Machinable parcels only or machinable parcels combined with bedloaded nonmachinable parcels].	BMC PITTSBURGH PA 15195
* * * * *	*

* * * * *

E752 Bound Printed Matter

* * * * *

2.0 Destination Bulk Mail Center (DBMC) Rates

* * * * *

2.3 Presorted Machinable Parcels

[Amend 2.3 by adding the phrase ''except as shown in Exhibit E751.1.3'' to the third sentence to read as follows:]

Presorted machinable parcels in sacks or on pallets at all sort levels may claim DBMC rates Machinable parcels palletized under M045 or sacked under M722 maybe sorted to destination BMCs under L601 or to destination BMCs and ASFs under L601 and L602. Except as provided in Exhibit E751.1.3, sortstation of machinable parcels to ASFs its optional but is required for the ASF mail to be eligible for DBMC rates. * * *

* * * * *

L Labeling Lists

* * * * *

L600 Standard Mail and Package Services

L601 BMCs

[Amend L601 by revising items to read as follows:]

* * * * *

a. Standard Mail machinable parcels except ASF mail (other than mail for the Buffalo ASF service area) prepared and claimed at DBMC rates. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC.

* * * * *

c. Bound Printed Matter machinable parcels except ASF mail (other than mail for the Buffalo ASF service area) prepared and claimed at DBMC rates. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC.

e. Parcel Post except for ASF mail (other than mail for the Buffalo ASF service area) prepared and claimed at DBMC rates and nonmachinable BMC Presort or OBMC Presort rate mail. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC. Nonmachinable parcels for the Buffalo ASF service area claimed at DBMC rates may be sorted to the Pittsburgh BMC if bedloaded and presented with machinable parcels.

* * * * *

L602 ASFs

Amend L602 by revising L602a, L602c, and L602e to read as follows:]

L602 defines the service area by individual 3-digit ZIP Code prefix for Standard Mail and Package Services mail that must be sorted to ASFs.

Use this list for:

a. Standard Mail machinable parcels if ASF mail (other than mail for the Buffalo ASF service area) is prepared and claimed at DBMC rates. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC under L601.

* * * * *

c. Bound Printed Matter machinable parcels if ASF mail (other than mail for the Buffalo ASF service area) is prepared and claimed at DBMC rates. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC under L601.

* * * * *

e. Parcel Post machinable parcels if ASF mail (other than mail for the Buffalo ASF service area) is prepared

and claimed at DBMC rates. Machinable parcels for the Buffalo ASF service area prepared and claimed at DBMC rates must be sorted to the Pittsburgh BMC under L601. Nonmachinable parcels for the Buffalo ASF service area claimed at DBMC rates may be sorted to the Pittsburgh BMC under L601 if bedloaded and presented with machinable parcels.

* * * * *

[An appropriate amendment to 39 CFR part 111.3 will be published to reflect these changes.]

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–11310 Filed 5–6–02; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–57–200224; FRL–7206–2]

Approval and Promulgation of Implementation Plans; Georgia: 1-Hour Ozone Attainment Demonstration, Motor Vehicle Emissions Budgets, Reasonably Available Control Measures, Contingency Measures and Attainment Date Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Clean Air Act, as amended in 1990, (CAA), EPA is approving the 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Atlanta serious 1-hour ozone nonattainment area. In conjunction with its approval of the attainment demonstration, EPA is: extending the ozone attainment date for the Atlanta 1-hour ozone nonattainment area to November 15, 2004, while retaining the area's current classification as a serious ozone nonattainment area; finding that the Atlanta 1-hour ozone nonattainment area meets the reasonably available control measures (RACM) requirements of the CAA; finding that the contingency measures identified by the State of Georgia are adequate; approving the Partnership for a Smog Free Georgia (PSG) program; and approving the 2004 motor vehicle emissions budgets (MVEB).

EFFECTIVE DATE: This rule will be effective June 6, 2002.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following addresses: U.S. EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363–7000.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, EPA Region 4, (404) 562–9036 or email: *martin.scott@epa.gov.*

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I. Background

On July 17, 2001, the Georgia Environmental Protection Division (GAEPD) submitted to EPA a revised 1-hour ozone attainment demonstration for the Atlanta 1-hour ozone nonattainment area (Atlanta area) that replaced the attainment demonstration submitted to EPA on October 28, 1999. The new submittal contained a revised MVEB, a request for an attainment date extension to November 15, 2004, a revised PSG program and the RACM analysis. GAEPD also agreed to perform an early assessment of the Atlanta Ozone Attainment SIP and submit it to EPA by November 15, 2003.

EPA proposed to approve the attainment demonstration and to grant an attainment date extension, pursuant to EPA's ''Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas.'' The extension policy applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the 1-hour ozone standard by the dates prescribed in the CAA. As an alternative to reclassification for areas affected by transport, the extension policy provides that an area, such as Atlanta, is eligible for an attainment date extension if it can make submissions that meet certain conditions. EPA proposed that the Atlanta area met all of the required conditions.

In the alternative, EPA proposed to find that the Atlanta area failed to attain the 1-hour ozone National Ambient Air Quality Standards (NAAQS) by November 15, 1999, the date set forth in the CAA for serious nonattainment areas. If EPA had finalized this finding, the Atlanta area would be reclassified, by operation of law, as a severe nonattainment area. EPA also took comment on a proposed schedule for submittal of the SIP revisions required for severe areas should the area be reclassified.

Please see the **Federal Register** proposal actions published on December 16, 1999, (64 FR 70478) and December 11, 2001, (66 FR 63972) for further information.

II. Today's Actions

A. Attainment Demonstration Approval and Extension of Attainment Date

In today's action EPA is finalizing its proposed determination that the Atlanta SIP has met the criteria for an attainment date extension. Therefore, EPA is extending the attainment date for the Atlanta area to November 15, 2004, to allow the reductions in transport needed for attainment to occur. Please see the **Federal Register** actions published on December 16, 1999, (64 FR 70478) and December 11, 2001, (66 FR 63972) for further information.

EPA's policy regarding an extension of the ozone attainment date for areas affected by transport was set forth in a July 16, 1998, guidance Memorandum entitled ''Extension of Attainment Dates for Downwind Transport Areas'' which was published in a notice of interpretation on March 25, 1999, (64 FR 12221). In it, EPA set forth its interpretation of the CAA regarding the extension of attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour ozone NAAQS, and which are downwind of areas that have interfered with the moderate and serious nonattainment areas's attainment of the ozone NAAQS by dates prescribed in the CAA. EPA stated that it will consider extending the attainment date for an area or a state that:

a. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

b. Has submitted an approvable attainment demonstration with any necessary, adopted local measures, and with an attainment date that shows it will attain the 1-hour NAAQS no later than the date that the emission reductions are expected from upwind areas in the final nitrogen oxide (NO_X) SIP Call and/or the statutory attainment

date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

c. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve timely attainment, assuming the emission reductions occur as required in the upwind areas; and

d. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA has determined that the Atlanta area has satisfied the criteria for an attainment date extension as follows.

(i) The State has cited EPA's NO_X SIP Call modeling and analyses documented in EPA's final NO_X SIP Call notice published on October 27, 1998, (63 FR 57356) to demonstrate that the Atlanta area is affected by an upwind area in another state that significantly contributes to ozone nonattainment in the Atlanta area. In our December 16, 1999, notice (64 FR 70478) proposing approval of the initial 1-hour ozone attainment demonstration for the Atlanta area submitted on October 28, 1999, we explained how the Ozone Transport Assessment Group (OTAG) modeling which supported the NO_X SIP Call and the attainment demonstration for the Atlanta area demonstrates the impacts of transport. The NO_X SIP Call notice provides that emissions from sources in Alabama, Kentucky, North Carolina, South Carolina, and Tennessee significantly contribute to violations of the 1-hour ozone standard in the Atlanta area.

(ii) As explained elsewhere in this notice, the GAEPD has submitted an attainment demonstration that EPA believes is approvable and that provides for timely attainment no later than the date emission reductions are expected under the NO_X SIP call. All of the local control measures relied upon in the attainment demonstration have been adopted and submitted to EPA. These measures include all serious area requirements under section 182(c) and the additional controls discussed in the December 16, 1999, proposal (64 FR 70478) and the July 10, 2001, (66 FR 35906) final rule.

(iii) The GAEPD has adopted all local measures required by section 182(c) of the CAA for the Atlanta serious nonattainment area and all other measures necessary for timely attainment. (See 59 FR 46176, 60 FR 12691, 60 FR 66150, 61 FR 3819, 62 FR 42918, 64 FR 20188). Additionally, see discussion of contingency measures discussed below.

(iv) With respect to implementation of all adopted measures as expeditiously as practicable but no later than the time upwind controls are expected, the Atlanta SIP requires that all local control measures needed for attainment be in place by May 1, 2003, or earlier. The upwind areas identified above are required to implement controls consistent with the NO_X SIP Call by May 31, 2004. All of the local control measures in the Atlanta SIP will, therefore, be implemented prior to that time and EPA also finds that they will be implemented as expeditiously as possible.

EPA has determined, based on the above discussion, that the Atlanta SIP has met the criteria for an attainment date extension. Therefore, EPA is extending the attainment date for the Atlanta area to November 15, 2004, to allow the reductions in transport to occur before attainment is required. This does not affect the GAEPD's obligation to implement the remaining local measures by the dates required in the approved SIP regulations. Additional background information on EPA's attainment date extension policy can be found in the following **Federal Register** notices:

64 FR 14441—March 25, 1999
64 FR 12284—March 18, 1999
64 FR 18864—April 16, 1999
64 FR 27734—May 21, 1999
64 FR 70459—December 16, 1999
65 FR 20404—April 17, 2000
66 FR 585—January 3, 2001
66 FR 634—January 3, 2001
66 FR 666—January 3, 2001
66 FR 17647—April 3, 2001
66 FR 20122—April 19, 2001
66 FR 26913—May 15, 2001
66 FR 33996—June 26, 2001

In the supplemental proposed rule published on December 11, 2001, EPA proposed to approve the 1-hour ozone attainment demonstration for the Atlanta area as submitted on July 17, 2001, and to extend the area's attainment date to November 15, 2004. In the alternative, EPA proposed to find that the Atlanta area failed to attain the 1-hour ozone NAAQS by November 15, 1999, and to reclassify the Atlanta area to severe.

In today's action, EPA is granting final approval to the 1-hour ozone attainment demonstration for the Atlanta area and extending the attainment date to November 15, 2004. The Atlanta area will thus retain its classification as a serious nonattainment area.

B. Reasonably Available Control Measures Analysis (RACM)

Section 172(c)(1) of the CAA requires attainment demonstration SIPs to provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology, (RACT) and to provide for the attainment of the NAAQS. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1) (see 57 FR 13498, 13560). RACM was also discussed in the supplemental proposed rule published on December 11, 2001, (see 66 FR 63972). Today, EPA is approving Georgia's RACM analysis.

C. 2004 Motor Vehicle Emissions Budgets

The MVEB for 2004 were calculated using the revised speeds, updated registration data, updated vehicle miles traveled (VMT), and projected 2004 VMT, and the control measures identified in the 1-hour ozone attainment demonstration for the Atlanta area. The resulting budgets are 106.25 and 225.12 tons per typical summer day of VOC and NO_X, respectively.

These MVEB reflect the most up-to-date mobile modeling assumptions including 2004 VMT projected from the travel demand model for the Atlanta area and July 2004 emission factors from EPA's MOBILE5b emission factor model and 1999 vehicle registration data, which were available at the time of SIP adoption. The control measures identified and modeled for mobile emissions used to establish the MVEB, along with other control measures in this plan, will result in attainment of the 1-hour ozone NAAQS by 2004.

EPA is granting final approval to the 2004 MVEB because they are based on the most recent data, they reflect reductions from the control measures included in the attainment demonstration and they are consistent with the overall attainment demonstration.

Now that EPA has approved the Atlanta attainment demonstration, all future transportation conformity determinations must be measured against the MVEB in the approved SIP. The previous adequacy determination that EPA had made with respect to the MVEB in the submitted attainment demonstration SIP will have no further force or effect in any future conformity determinations. EPA's final approval of the attainment demonstration and the

MVEB contained in it is a separate action from EPA's prior adequacy determination and is based upon different analyses and standards. The adequacy determination had only found that the submitted budgets met the adequacy criteria in EPA's transportation conformity regulations, 40 CFR 93.118(e)(4). Today's approval is based on EPA's conclusions that the SIP as a whole, including the MVEB it contains, meets all applicable requirements for approval of an attainment demonstration as described throughout this notice.

D. Partnership for a Smog Free Georgia

In 1997, EPA published the ''Voluntary Mobile Source Emission Policy'' (VMEP) in order to assist states considering nonregulatory emission strategies, which are generally not effective on a mandatory basis. The VMEP policy allows states to take credit for expected emission reductions from voluntary mobile source programs, and allows states to take credit for up to 3 percent of the total emission reductions needed for attainment through the VMEP policy. Georgia is using this policy to take credit for its PSG program. The PSG promotes effective voluntary actions that employers, their employees and general residents in the region can take to help improve air quality in the metro Atlanta region during the ozone season.

EPA is approving the PSG program, its evaluation procedures, and the expected emission reduction targets as an enforceable part of the SIP under the VMEP policy. Additional information can be found in the above referenced proposal notice.

E. Contingency Measures

Section 172(c)(9) and 182(c)(9) of the CAA require SIPs to contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date or to meet rate-of-progress (ROP) deadlines. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. Although the Atlanta SIP does not contain such contingency measures EPA has determined that existing federally enforceable measures would provide the necessary substantive relief sufficient to provide the basis for approval of an extension to the area's attainment date. Georgia must still submit the required contingency measures to EPA for approval into the SIP. Additional information can be found in the above referenced proposal notice.

III. Comment and Response

EPA received comments from the public on the Notices and Supplemental Notices of Proposed Rulemaking published in the **Federal Register** on December 16, 1999, (64 FR 70478) and December 11, 2001, (66 FR 63972.) Comments were submitted by The Georgia Conservancy, Environmental Defense, Natural Resources Defense Council, The Sierra Club, Souther Company Services, Kilpatrick Stockton LLP, Georgia Center for Law in the Public Interest, American Road & Transportation Builders Association (ARTBA), Advocates for Safe and Efficient Transportation (ASET), National Association of Home Builders (NAHB), and the Southern Environmental Law Center.

EPA sets forth below in this section our responses to adverse comments received on these notices which are relevant to this rulemaking. Additionally, some of the comments received in Docket A–98–47 on EPA's notice regarding ''Extensions of Attainment Dates for Downwind Transport Areas'' 64 FR 14441 (March 25, 1999), are relevant to this rulemaking. EPA incorporates its responses to those comments, set forth in 66 FR 585, 66 FR 634, 66 FR 666 (January 3, 2001), 66 FR 26913 (May 15, 2001), and 66 FR 33996 (June 26, 2001) insofar as herein relevant.

The following discussion summarizes and responds to all adverse comments:

Comments Received Relating to the Supplemental Proposed Rule Published in the **Federal Register** *on Tuesday, December 11, 2001, See 66 FR 63972*

Comment 1

EPA proposes to extend the attainment date for the Atlanta metropolitan area to November 15, 2004, 66 Fed. Reg. 63,972. Because this extension violates the plain meaning of the CAA, it must be rejected under Step One of *Chevron U.S.A.* v. *Natural Resources Defense Council*, 467 U.S. 837, 842–43 (1984). Moreover, the extension rests on an unreasonable—and therefore impermissible—interpretation that must be rejected even if Chevron Step Two applies. See *Whitman* v. *American Trucking Assns.*, 121 S. Ct. 903, 916 (2001) (reversing an EPA interpretation of Subparts 1 and 2 that ''goes beyond the limits of what is ambiguous and contradicts what in our view is quite clear''); *Natural Resources Defense Council* v. *Daley*, 209 F.3d 747, 753 (D.C. Cir. 2000) (rejecting an agency interpretation that ''diverges from any realistic meaning'' of the statute).

The CAA expressly sets November 15, 1999, as the attainment date for serious areas, and authorizes no extensions on the grounds asserted by EPA. The structure of the CAA further refutes EPA's assertion of authority to amend those deadlines administratively. While accepted principles of statutory interpretation would in any event preclude EPA's attempt to administratively amend express statutory provisions, such amendment is especially unwarranted with respect to deadlines for attainment of primary air quality standards.

EPA's claim that it has authority to extend attainment dates based on pollution transport is further refuted by express CAA provisions showing that Congress expressly authorized both (1) attainment date extensions and (2) modifications to the CAA's provisions based on pollution transport. These extension provisions provide the exclusive authority for attainment date extensions because when Congress has prescribed the conditions under which an extension may be granted, no other conditions may be created by the Agency to grant an extension. The U.S. Court of Appeals for the Eleventh Circuit rejected EPA's administrative amendment of the CAA plain terms.

Response 1

In this final rule, EPA responds to the adverse comments on EPA's legal authority to extend Atlanta's attainment date received in response to the relevant proposals. The responses to comments in a number of prior rulemakings concerning the attainment date extensions granted in Washington, DC, Springfield, MA, Greater CT, Beaumont Texas, and St. Louis are relevant and responsive to the comments received on Atlanta. In those prior rulemakings, EPA responded to similar challenges to the legality of the attainment date extension policy, and EPA therefore incorporates its responses to these comments, set forth in 66 FR 586, 66 FR 634, 66 FR 666 (January 3, 2001), 66 FR 26913 (May 15, 2001) and 66 FR 33996 (June 26, 2001) insofar as herein relevant.

Many of the legal arguments and other issues raised in the comments addressing the attainment date extension proposed in Atlanta have also been addressed in the briefs EPA has filed in litigation concerning the extensions in Washington, D.C. (*Sierra Club* v. *Whitman*) No. 01–1070 (D.C. Cir.), St. Louis, *Sierra Club* v. *EPA* 01–2844, No. 01–2845 (7th Cir.), and *Sierra Club* v. *Whitman*, Nos. 01–5123 and 01–5299 (D.C. Cir.) and Beaumont *Sierra Club* v. *EPA*, No. 01–60537 (5th Cir.). These briefs have been placed in the

docket for this rulemaking and are incorporated herein by reference.

In response to the contention that EPA's proposed attainment date extension conflicts with an order previously issued by the Eleventh Circuit Court of Appeals, the Eleventh Circuit Court of Appeals has not even directly reviewed, or ruled on, and thus certainly has not formally rejected, EPA's attainment date extension policy. The court did issue a stay of EPA's adequacy determination on the emissions budgets in the 1999 attainment demonstration SIP pending completion of litigation in *Georgians for Transportation Alternatives, et al.* v. *EPA, et al.*, No. 00–12187, order of July 18, 2000. The petitioners had alleged in their stay request that the budget was inadequate because the SIP illegally relied upon an attainment date extension. However, EPA responded that the budget would be adequate even if an attainment date were not granted and the area were bumped up, since in either case the attainment date would be the same. The court granted the stay in a one line order without opinion. The most that can be taken from this action is that the court believed petitioners had some likelihood of success on the merits and in light of allegations of potential harm chose to preserve the status quo pending completion of the litigation. The issuance of the stay without opinion in no way indicates that the court affirmatively rejected EPA's extension policy. The court never ruled further on the matter since EPA ultimately withdrew its adequacy determination based on new factual developments relating to the attainment demonstration. Similarly, in a recent development that occurred after EPA received comments on its instant action, the 11th Circuit Court of Appeals issued a stay on the recently adequate MVEB for the Atlanta nonattainment area in response to a request for an expedited stay in *Sierra Club, et al* v. *EPA*, No. 02–11188–F on April 17, 2002. However, the 11th Circuit of Appeals did not provide any rationale for its grant of the stay. It simply issued a stay in the same manner as in *Georgians for Transportation Alternatives, et al.* v. *EPA, et al.*, No. 00–12187. Since a stay is not an adjudication on the merits, the grant of a stay does not change EPA's position as to the legality of the extension policy.

A commenter's contention that EPA should not grant Atlanta an attainment date extension because Georgia should have acted earlier to commence a section 126 proceeding to reduce emissions from upwind states ignores the fact that an adequate analysis and allocation of responsibility for transport did not exist in time to support relief by the area's original attainment date. See similar responses in EPA's prior rulemakings on the other attainment date extension areas.

Another argument raised is that reclassification of an area affected by transport is necessary to achieve additional interim reductions in the area, even where they will not advance attainment and when a combination of local and upwind reductions will bring the area into attainment. The commenter relies for his argument on section 176(c)(1)(A), a conformity provision which contains only a general characterization of the purposes of the SIP as a whole. While EPA agrees that SIPs have purposes other than that of providing for attainment, the CAA contains specific and detailed requirements directed to fulfilling those purposes, and the SIP for Atlanta meets those requirements. EPA believes that, under the circumstances, Congress did not intend to require a SIP to go beyond those requirements in order to obtain reductions to compensate for pollution coming from outside the area's borders. The commenter also references *Natural Resources Defense Council* v. *Reilly*, 983 F.2d 259, 268, 272 (D.C. Cir. 1993). This case involved promulgation of requirements for on-board refueling vapor recovery systems, a provision far different from the complex relationship among the CAA provisions regarding transport and reclassification. Contrary to commenter's contention that *Reilly* supports the concept of ''double controls'', in the context of onboard regulation, Congress mandated that Stage II controls be withdrawn after the promulgation of onboard controls in moderate areas, and also mandated a more delayed withdrawal from serious and severe areas because of the decade-long phase-in required for effective onboard controls in those areas. That case did not deal with transport, and nothing in *Reilly* indicates that Congress would be supportive of local areas being held responsible for reducing transported pollution for which upwind areas are obligated to promulgate and implement controls.

A commenter argues that it is equitable to reclassify Atlanta because, although it is downwind of some areas, it is upwind of other nonattainment areas, and may contribute to nonattainment there. Reclassification of an upwind area, however, is not the mechanism prescribed by Congress to remedy transport. An area is not required to be reclassified if it provides for local attainment but contributes to nonattainment elsewhere. For purposes of reclassification the relevant analysis is of the air quality and transported pollution problem in the area being reclassified, and not the air quality downwind from the area. To the extent that the area is responsible for violations in other areas downwind, it is subject to the provisions of section 110(a)(2)(D) and section 126.

Commenters cite to prior case law in support of such propositions as: a list of specific remedial provisions excludes the possibility of inferring that Congress intended any additional forms of relief; an agency cannot substitute its policy choices for those of Congress; the attainment deadlines are central to the CAA and cannot be adjusted. EPA has previously set forth its views on these issues in its prior responses and in its briefs. None of the cases or arguments cited by the commenter alters these views, or undermines EPA's authority to interpret the text of the statute in its full context so as to give effect to Congress's intent. EPA is implementing the attainment date extension not as a mere Agency policy preference, but in order to fulfill Congress's intent. Moreover, even in the absence of explicit statutory authority, EPA may grant extensions of time under the CAA where it concludes that Congress would have done the same had it foreseen the circumstances presented. *NRDC* v. *EPA,* 22 F.3d 1125 (D. C. Cir. 1994).

Comment 2

EPA's proposal to grant an unauthorized date extension has been pre-empted by the re-classification of the Atlanta area that occurred by operation of law pursuant to section 182(g)(3) of the CAA. That provision provides for reclassification of a serious area to severe ''[i]f a State fails to submit a demonstration under paragraph 2 for any Serious area within the required period,'' and fails to make a election of one of the statutory options prescribed by paragraph (3) for remedying that failure.

Comment 3

The fact that Georgia failed to make the demonstration required by section 182(g)(2) is established by EPA's response to a Freedom of Information Act request submitted April 20, 2001.

Comment 4

Atlanta failed to comply with the rate of further progress milestone for NO_X.

Response to Comments 2, 3, and 4

Under paragraph (2) of subsection 182(g), each State containing all or part of a nonattainment area classified serious or higher is required to submit,

at specified times after a milestone has occurred, ''a demonstration that the milestone has been met.'' This provision further provides,

A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

Under paragraph (3), ''If a State fails to submit a demonstration under paragraph (2),'' it must, within specified time frames, elect among several choices, and if it fails to make such an election, then, at a specified time, it is reclassified by operation of law.

By its terms, paragraph (3) mandates the reclassification, or bump-up, only if the State fails to submit ''a demonstration under paragraph (2).'' Paragraph (2), in turn, provides by its terms that the required demonstration is one that ''in such form and manner * * * contain[s] such information and analysis as the Administrator shall require, by rule.''

Subsection 182(g) does not provide a date by which EPA must promulgate the rule that establishes the requirements for the demonstration, and EPA has not yet promulgated such a rule. By limiting the bump-up to circumstances in which the State fails to submit a demonstration that conforms to EPA requirements for form and content, subsection 182(g), read most straightforwardly, indicates at least through implication that absent such a rule, there is no requirement for any demonstration that, if not submitted, would ultimately result in a bump-up.

This reading is sensible in light of the many different methods that EPA could require for the demonstration. The milestone compliance demonstration is designed to require some form of accounting to ascertain whether the area has achieved the amount of emissions reductions that the SIP requires by that time. One method of making this calculation may be to require a comprehensive inventory of all sources near the time of the milestone. This approach may require careful consideration because of the time and expense typically involved in conducting inventories, and because other provisions of the CAA require inventories, but at different times than would be required by the milestone compliance demonstration. *See* 182(a)(3). A second method may be to allow emissions estimates, consistent with approved methodologies, rather than comprehensive inventories. A third method may be to determine whether the controls required under the SIP to have been implemented by the time of the milestone have, in fact, been implemented. These different methods would impose significantly different burdens on States and sources, and may yield somewhat different results.

This review of the different methods for making the demonstration makes clear that the most straightforward reading of section 182(g)(2)–(3)—to require application of the bump-up by operation of law only after a EPA promulgates rules for the demonstration—is sensible. It makes sense that EPA should first tell the States, by rule, which of the various milestone accounting methodologies they must use. By comparison, it would make little sense to punish, in effect, a State with a bump-up for failing to submit a demonstration when EPA has not yet told the State the form and content for the demonstration, and when important differences exist in the various methods for making the demonstration.

The CAA requires serious ozone nonattainment areas to develop and submit Rate of Progress Plans (ROP) which would provide for at least a 15 percent reduction of volatile organic compound (VOC) emissions 1990 to 1996 (15 percent plan), and Post-1996 ROPs, which would provide for at least three percent per year in either VOC or NO_X annually for 1997, 1998, and 1999, (9 percent plan). The 15 percent plan was submitted on November 15, 1993, and the 9 percent plan was submitted on November 15, 1994. Both plans were revised on June 17, 1996.

All elements of the 15 percent plan, which reduced VOC emissions by 117.06 tons per day were implemented by the GAEPD. EPA granted final approval to this plan on April 26, 1999, (64 FR 20186). A milestone compliance demonstration (MCD) as required by section 182(g) of the CAA was submitted by the GAEPD to EPA on February 14, 1997.

All elements of the 9 percent plan, which reduced NO_X emissions by 50.10 tons per day, were implemented by the GAEPD. Although the GAEPD did not submit a milestone compliance demonstration, there is a discussion in section 3.2.2. of the attainment demonstration which states that all control measures associated with the 15 and 9 percent plans have been adopted and implemented. EPA granted final approval to this plan on March 18, 1999, (64 FR 13348).

Comment 5

The Atlanta SIP fails to demonstrate attainment with a standard of 0.12 ppm, rather than 0.124 which was not promulgated as the NAAQS.

Response 5

Although the 1-hour NAAQS itself includes no discussion of specific data handling conventions similar to that of the 8-hour NAAQS, EPA's publicly articulated position and the approach long since universally adopted by the air quality management community is that the interpretation of the 1-hour ozone standard requires rounding ambient air quality data consistent with the stated level of the standard. EPA has clearly communicated the data handling conventions for the 1-hour ozone NAAQS in regulation and guidance documents. In the 1990 Amendments to the CAA, Congress expressly recognized the continuing validity of EPA guidance.

As early as 1977, two years before EPA promulgated the 1-hour ozone NAAQS, EPA provided in guidance that the level of the standard dictates the number of significant figures to be used in determining whether the standard was exceeded (Guidelines for the Interpretation of Air Quality Standards, OAQPS No. 1.2–008, February 1977). In addition, the regulations governing the reporting of annual summary statistics from ambient monitoring stations for use by EPA in determining national air quality status clearly indicate the rounding convention to be used for 1-hour ozone data (40 CFR 58, Appendix F). In 1979, EPA issued additional guidance specific to ozone in which EPA provided that ''the stated level of the standard is taken as defining the number of significant figures to be used in comparisons with the standard. For example, a standard level of .12 ppm means that measurements are to be rounded to two decimal places (.005 rounds up), and, therefore, .125 ppm is the smallest concentration value in excess of the level of the standard.'' (Guideline for the Interpretation of Ozone Air Quality Standards, EPA–450/4–79–003, at p. 6.) EPA's guidance on air quality modeling is consistent with those Guidelines. *See e.g.,* Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, July 1996.

The level of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) is defined in 40 CFR 50.9 as 0.12 parts per million (ppm), not 120 parts per billion (ppb) as implied by the commenter. In other words, the 1-hour ozone NAAQS is specified as two

significant digits and the data handling approach employed to compare ambient air quality data to the 1-hour ozone standard is to round to two decimal places as per the regulations and guidance referenced above.

In the 1990 Amendments to the CAA, Congress expressly provided that ''[e]ach regulation, standard, rule, notice, order and *guidance* promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms * * *'' Thus, under the amended CAA, Congress expressly carried forth EPA interpretations set forth in guidance such as the guideline documents interpreting the NAAQS.

Comment 6

The control strategy submitted in the SIP as developed from the photochemical grid modeling demonstration will not provide for attainment.

Response 6

Even though, evidence from the photochemical grid model demonstrates that the control measures submitted in the current SIP may result in exceedances, the demonstration does provide for attainment. An area is considered to monitor attainment if each monitor site has air quality observed ozone design values (4th highest daily maximum ozone using the three most recent consecutive years of data) at or below the level of the standard. Therefore, it is appropriate for EPA, when making a determination that a control strategy will provide for attainment, to determine whether or not the model predicted future design value is expected to be at or below the level of the standard. Since the form of the 1-hour NAAQS allows exceedances, it did not seem appropriate for EPA to require the test for attainment to be ''no exceedances'' in the future model predictions. The Atlanta demonstration contains adequate measures to reduce the area-wide design value to below the level of the NAAQS.

The photochemical grid modeling assumed an attainment year of 2003. Allowing additional time to redo the modeling for 2004 would not be consistent with the CAA intent that areas come into attainment as expeditiously as practicable nor would it significantly advance the technical basis for the attainment demonstration. Therefore, EPA agreed that attainment for 2004 could be demonstrated with the submittal of a 2004 emissions inventory as a supplement to the 2003 demonstration, provided that the 2004 emissions are less than or equal to the level of emissions used in the modeling. It could then be concluded that if emissions for 2004 were modeled, the predicted concentrations of ozone would be less than or equal to the 2003 1-hour ozone concentrations modeled. As described below, the state has adequately addressed the differences between the emissions projections for 2003 and 2004.

The Atlanta 1-hour ozone attainment demonstration is based on photochemical grid modeling and weight of evidence analyses as recommended in the EPA's guidance for the 1-hour ozone attainment demonstration. Georgia submitted an attainment modeling demonstration supporting the attainment date extension to 2003 for the Atlanta 13-county nonattainment area to achieve the 1-hour ozone NAAQS to EPA on October 28, 1999. EPA proposed to approve the attainment demonstration and an attainment date extension request on the December 16, 1999, in the **Federal Register** (see 64 FR 70478). The photochemical grid ozone modeling performed for the Atlanta 1-hour ozone nonattainment area is based on an emissions projection to 2003, the attainment extension year that the Georgia Environmental Protection Division (Georgia EPD) requested of EPA in it's October 28, 1999, submittal. On December 16, 1999, EPA proposed approval of the 2003 attainment strategy developed with photochemical grid modeling and the supporting weight of evidence (WOE) analyses. EPA does not agree that errors and deficiencies exist in the 2003-based photochemical modeling to affect its approvability for demonstrating attainment of the 1-hour ozone NAAQS. Detailed information on the 2003 Atlanta attainment photochemical modeling demonstration, the supplemental WOE analysis and EPA modeling requirements are contained in the Technical Support Document for the December 16, 1999, proposal (64 FR 70478). The 2003 modeled control strategy simulations indicate that ozone levels in the Atlanta area will be significantly reduced when the identified additional controls are implemented.

Subsequent to the State's October 1999 submission and EPA's December 1999 proposed approval of the Atlanta attainment demonstration, the source compliance date under the NO_X SIP Call rule was extended from May 1, 2003 to May 31, 2004. In May 1999, the Court of Appeals for the District of Columbia Circuit stayed the obligation of states to submit SIPs in response to EPA's NO_X SIP Call rule, pending litigation over the rule. In March 2000, the Court issued an opinion largely upholding the SIP Call rule. In later rulings in the summer of 2000, the Court lifted the stay of the SIP submission obligation, but provided that since SIP submissions were delayed, EPA could not mandate that states require sources to comply with state-adopted rules under the SIP Call earlier than May 31, 2004. Because the attainment demonstration relied on upwind reductions from the NO_X SIP Call. Georgia determined that it could not attain in the year preceding the source-compliance date under the SIP and submitted a revised SIP requesting an attainment date of November 2004.

The revised attainment demonstration submitted by the State on July 17, 2001, relies on the photochemical grid modeling that was submitted in October 1999, but provides additional analysis. Although a 2004 attainment year is being proposed for approval for the Atlanta nonattainment area because of the upwind contribution, the local controls in the attainment strategy will all be implemented no later than May 2003.

The 2004 demonstration is based on the following procedures. First, the State uses information from the photochemical grid modeling and ambient air modeling to assess whether or not additional levels of emission reductions are needed beyond those that were necessary to demonstrate attainment. This assessment was completed using the emissions projections for 2004. The second part of the analysis involves an assessment of the levels of attainment emissions for 2004 and whether or not attainment in 2004 is reasonably likely to occur. A determination was made that if the estimates of the projected 2004 emissions with controls implemented are at or below the 2003 modeled levels then attainment by 2004 is reasonably likely to occur.

A comparison of the 2003 and 2004 modeling inventories indicate that NO_X emissions increase about 2 percent over the modeling domain, while VOC emissions decrease over 8 percent. Since the total NO_X emissions projected for 2004 are more than the levels modeled for 2003, a demonstration was needed to show why this would not adversely affect the ability of the area to attain the 1-hour ozone NAAQS by 2004. We believe that the relationship between VOC emission reductions and ozone concentration reductions and between NO_X emission reductions and ozone concentration reductions can be determined using the photochemical modeling results. Sensitivity analyses

from the photochemical modeling in the fine grid were used to develop a relationship to assess the potential for increases in ozone formation for the emission levels projected for 2004. The majority of the local emissions reductions for the attainment strategy occur within the 4-km fine grid with the exception of two power plants near the southern boundary. The sensitivity simulations used were based on the three episode days (i.e., July 31, 1987; August 1, 1987; and July 8, 1988) that were used in the 2003 control strategy simulations. These sensitivity simulations represented modeling scenarios based on reductions across emission inventory categories (e.g., low-level source or elevated sources) while holding all other emissions source categories constant. The air-quality-to-emission-change ratio (i.e., tons per day of emissions change per ppb change in ozone) was developed for each day and sensitivity simulation. The average of these ratios over all days and sensitivities was then determined for each pollutant for each episode day.

The submitted ratios indicate that a 41.5 TPD increase in NO_X is needed to cause a 1.0 ppb increase in ozone or a 164.9 TPD increase in VOC is needed to cause a 1.0 ppb increase in ozone. These relationships were applied to the emissions changes predicted between 2003 and 2004 as presented in Table 1. The tables indicate that NO_X emissions are expected to increase by 12.9 TPD and VOC emissions will decrease by 43.7 TPD in 2004. The NO_X and VOC ratios were applied to the emission changes between 2003 and 2004 to determine how ozone formation would be affected in 2004. This analysis indicated that a 0.3 ppb increase in ozone from the increase in NO_X emissions is offset by the a 0.3 ppb decrease in ozone from the VOC emissions. The identified shortfall gap has thus been met by the State and the necessary control measures approved by EPA. Therefore, the assessment supports the conclusion that the area will attain the NAAQS in 2004

Comment 7

The Atlanta SIP fails to demonstrate timely attainment through the impermissible use of linear rollback assumptions to demonstrate attainment under the weight of evidence approach to demonstrating attainment. The relative reduction factor (RRF) analysis used to estimate a future design value provides no rational basis for discounting the emissions reductions required by the Urban Airshed Model (UAM), to show attainment in all grid cells for future predictions for each day modeled.

Response 7

Episodic photochemical grid modeling is the primary basis for the attainment demonstration, as it was used to define the majority of the control strategy. However, the modeling and corroborative analyses, which form the basis of the weight of evidence analysis, provide a preponderance of evidence to support EPA's determination that attainment of the 1-hour ozone NAAQS will be achieved in 2004. One of these WOE analyses involved the use of a relative reduction factor (derived from the local model results) to determine the level of additional NO_X and VOC emissions reductions needed to attain.

EPA has generally relied on photochemical modeling to evaluate the attainment demonstration control strategy, and has used locally derived adjustment factors as a component to estimate the extent to which additional emissions reductions—not the core control strategy—would reduce ozone levels and thereby strengthen the weight of evidence test. This limited use of adjustment factors is more technically sound than the unacceptable use of proportional rollback. The limited use of adjustment factors is more practical in light of the uncertainty in the modeling; the resources and time required to perform additional modeling; and the requirement that serious areas perform a progress check by the end of 2003.

The relative reduction factor was used in one WOE analysis to estimate the reductions from additional control measures in the weight of evidence analysis. The 1996 modeling guidance recommends the optional use of weight of evidence analysis partly due to the form of the 1-hour ozone NAAQS. The 1-hour ozone NAAQS allows exceedances, and taking modeling uncertainty into consideration, EPA is not requiring all predicted values in the future model run to be below the level of the NAAQS. The 1996 guidance provides an approach for addressing exceedances (selection of episodes representative of the areas design value and the ''statistical'' test) and the 1999 guidance provides a method for testing whether additional measures, not modeled, are needed (estimate of a future design value). Since exceedances are allowed, EPA does not agree that the future modeling shows that the area will not attain. The modeling indicates the area may experience an exceedance (model predictions above the level of the NAAQS) but does not indicate this will lead to a violation (future design value estimate is below the level of the NAAQS).

EPA did not rely on ''proportional'' rollback as defined in Section 14.0 of 40 CFR 51 Appendix W which defines ''rollback'' as ''a simple model that assumes that if emissions from each source affecting a given receptor are decreased by the same percentage, ambient air quality concentrations decrease proportionately.'' The prohibition in section 6.2.1.e of Appendix W (i.e., ''Proportional (rollback/forward) modeling is not an acceptable procedure for evaluating ozone control strategies.'') applies to the use of a rollback method which is empirically/mathematically derived and independent of model estimates or observed air quality and emissions changes as the sole method for evaluating control strategies. In this case, EPA used a locally derived as determined by the model, relative reduction factor to estimate a future design value and then used observed changes in air quality (i.e., ratio of change in emissions to change in ozone) to estimate additional emission reductions to achieve an additional increment of ambient improvement in ozone. This did assume a linear relationship between the precursors and ozone for determining additional reductions needed for small improvements in ozone.

In 1999, EPA issued additional guidance (hereafter, the 1999 guidance) [1] that makes further use of model results for base case and future emission estimates to predict a future design value. This guidance describes the use of an additional component of the WOE determination, which requires, under certain circumstances, additional emission reductions that are or will be approved into the SIP, but that were not included in the modeling analysis, that will further reduce the modeled design value. An area is considered to monitor attainment if each monitor site has air quality observed ozone design values (4th highest daily maximum ozone using the three most recent consecutive years of data) at or below the level of the standard. Therefore, it is appropriate for EPA, when making a determination that a control strategy will provide for attainment, to determine whether or not the model predicted future design value

[1] ''Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled.'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: *http://www.epa.gov/ttn/scram.*

is expected to be at or below the level of the standard. Since the form of the 1-hour ozone NAAQS allows exceedances, it did not seem appropriate for EPA to require the test for attainment to be ''no exceedances'' in the future model predictions. The method outlined in EPA's 1999 guidance uses the highest measured design value from all sites in the nonattainment area for each of three years. The three year ''design value'' represents the air quality observed during the time period used to predict ozone for the base emissions. This is appropriate because the model is predicting the change in ozone from the base period to the future attainment date. The three yearly design values (highest across the area) are averaged to account for annual fluctuations in meteorology. The result is an estimate of an area's base year design value. The base year design value is multiplied by a ratio of the peak model predicted ozone concentrations in the attainment year (i.e., average of daily maximum concentrations from all days modeled) to the peak model predicted ozone concentrations in the base year (i.e., average of daily maximum concentrations from all days modeled). The result is an attainment year design value based on the relative change in peak model predicted ozone concentrations from the base year to the attainment year.

In the event that the attainment year design value is above the standard, the 1999 guidance provides a method for identifying additional emission reductions, not modeled, which at a minimum provide an estimated attainment year design value at the level of the standard. This step uses a locally derived factor which assumes a linear relationship between ozone and the precursors. This is the WOE analysis used by the State to determine additional reductions needed for attainment beyond those modeled. It incorporates the analysis used in the RRF analysis. The regulations do not mandate or nor does EPA guidance suggest that States must model all control measures being implemented. Moreover, a component of this technique, the estimation of future design value, should be considered a model predicted estimate. Therefore, results from this technique are an extension of ''photochemical grid'' modeling and are consistent with Section 182(c)(2)(A).

Comment 8

The Atlanta SIP fails to demonstrate attainment by averaging the emissions reductions required for different atmospheric episodes to determine reductions needed to attain at specific monitoring sites, and averaging between monitoring sites to support a weight of the evidence analysis.

Response 8

The commenter is concerned that calculating the RRF by averaging across episode days is not justified by sound science. When developing the 1999 guidance, EPA considered the use of day specific RRFs versus an average RRF across the days. It was determined that due to day to day variability in ozone concentrations there is more uncertainty in the day specific RRFs, than the RRF calculated by averaging across days. Therefore this approach reduces the impact of a single day and the uncertainty associated with the calculation of the estimated future design value. Since the goal was to estimate a future design value (which allows exceedances), EPA used the average across days. This approach demonstrates future design values below the NAAQS, not day specific predictions below the NAAQS. EPA did estimate an area-wide future design value based on the area's worst design value, instead of site specific future design values as recommended in the EPA's 8-hour modeling guidance. Site specific estimates would provide more information on the spatial variability in the future estimates. However, we have seen from other analyses that other sites typically respond in the same manner as the worst site. The episodes modeled in the attainment demonstration represent the most severe days and highest ever monitored ozone concentration from the three most common meteorological regimes (i.e., stagnation, northwest winds, and the worst case of all other meteorological conditions combined) observed in the Atlanta monitoring network. The guidance does not require that an area demonstrate no exceedances for these severe days, but rather for those days that are representative of the area's design value. It is likely that the model could have predicted lower ozone values for the future scenarios if more representative episodes had been modeled.

Comment 9

Failure to consider the implications of uncertainty in results precludes demonstration of attainment.

Response 9

EPA considers uncertainty as the ''notion that model estimates will not perfectly predict observed air quality at each receptor location, neither now nor in the future.'' [2] A great deal of variability in the model estimate is possible from day to day. This variability is in part due to the use of different days, limits on model formulation, limits on understandings of the problem to be modeled, database limitations, uncertainties in forecasting emissions. Some of this variability can be investigated through the use of diagnostic tests which describe alternate, yet highly, plausible variations in the input estimates for wind fields, emission, and modeling methods for chemistry, transport algorithms, removal processes, and numerical routines. For these reasons, EPA recommends that a model performance evaluation be conducted, using graphical and statistical measures, to determine how the model replicates historical ozone events. The state developing the attainment demonstration needs to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration. EPA does not require a rigid criterion for model performance, similar to the 95% certainty level cited by the commenter to be used in a pass/fail test. However, certain statistical parameters are recommended to be developed. Statistical performance measures are recommended to assess whether or not the model evaluation is acceptable.[3] The three primary statistical measures calculated, and the EPA recommended ''acceptability'' ranges used in the SIP are unpaired accuracy of the peak (EPA goal: within ± 15–20 percent), and the mean relative error (EPA goal: within ± 5–15 percent, mean unsigned relative error (EPA goal: 30–35 percent). If a state develops an attainment demonstration that indicates acceptable model performance according to the UAM guidance, EPA allows the State to use that model, inputs, and projected emissions to develop an attainment strategy.

[2] ''Draft Guidance on the Use of Models and other Analyses in Attainment Demonstrations for the 8–Hour Ozone NAAQS.'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. May 1999. Web site: *http://www.epa.gov/ttn/scram.*

[3] ''Guideline for Regulatory Application of the Urban Airshed Model.'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. July 1996. Web site: *http://www.epa.gov/ttn/scram.*

Although there are uncertainties associated with the model outputs, it can still be used to support an attainment demonstration and make use of the RRF analysis as part of the weight of evidence.

As calculated, the RRF negates some of the model uncertainty. The same modeling assumptions and meteorological inputs are used for the base year and future year model simulations (only emissions change). Thus to some degree simulated ozone concentrations for both the base year and future year show similar bias (both magnitude and direction). This model bias is eliminated when the RRF is calculated. Since the RRF is a ratio, the bias in the future year concentration (numerator) is canceled by the bias in the base year concentration (denominator). This ratio is then multiplied by the areas observed design value to estimate a future design value. Since in most cases, uncertainties associated with observations are negligible compared to the uncertainties associated with the modeled ozone concentrations, the resulting future design value is a reasonable prediction of future air quality which accounts for uncertainty in day specific model predictions. Therefore, when the RRF is applied to the observed ozone design value concentration, values below the standard indicate attainment is likely to be achieved.

Comment 10

Commenters object to the arbitrary and capricious use of MOBILE5 to estimate motor vehicle emissions which has been shown to significantly underestimate motor vehicle emissions.

The tool used to estimate motor vehicle emissions for the attainment demonstration is the MOBILE model. The accuracy of this estimate is critical because, as demonstrated by Table 1 in the notice, on-road sources account for 53 percent of the total NO_X emission inventory, and 35% of VOCs for the nonattainment area. MOBILE5 was used to estimate motor vehicle emissions in the region for the attainment demonstration. The commenter believes the vehicle emissions are underestimated and should have been run using MOBILE6.

Response 10

As noted in the January 18, 2002 Memorandum titled, ''Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity,'' the CAA requires that SIP inventories and control measures be based on the most current information available and applicable when a SIP is developed [Section 172(c)(3) of the CAA and 40 CFR 51.112(a)(1)]. However, as noted in the answer to the first question in that document, ''EPA believes that the CAA would not require states that have already submitted SIPs or will submit SIPs shortly after MOBILE6's release to revise these SIPs because a new motor vehicle emissions model is now available.'' This concept was reiterated in the January 29, 2002, **Federal Register** notice announcing the approval and availability of MOBILE6 for use in SIPs and conformity determinations. Use of the MOBILE6 model for SIP development was not allowed before the January 29, 2002 **Federal Register** notice. As the Atlanta attainment demonstration was submitted on July 17, 2001, and the MOBILE modeling was performed prior to that date, MOBILE5 had to be used as MOBILE6 was not yet approved for use in SIP development.

It should also be noted that at the time of the development of the Atlanta attainment demonstration changes were being made to the various draft versions of the MOBILE6 model as problems were detected in testing the drafts. Since the MOBILE6 model was not available when the Atlanta SIP was developed EPA concludes that it was appropriate to develop the SIP with the MOBILE5 model. In addition, changes in emission rate estimates, as compared to those modeled with MOBILE5, are area specific. Therefore, the exact effect in Atlanta can not be determined until MOBILE6 is run with area specific data. EPA can not now predict whether the MOBILE6 model will produce lower or higher emissions for the attainment year for Atlanta.

Comment 11

Commenters object to taking credit for expected reductions in motor vehicle emissions from the PSG that have not occurred, are not being demonstrated, are not enforceable and may not be reasonably expected.

Response 11

The Voluntary Mobile Source Emission Reduction Policy is designed to encourage innovation in air pollution control without the typical regulatory hammer used to enforce against stationary sources. The policy allows a state to take a small amount of credit for reasonably expected emission reductions. The reasoning should be based on historical trends or other methodologies or commitments to meet certain goals. In addition, the State must commit to monitor, evaluate, and reconcile any emissions reduction shortfall from such programs in a timely manner. In the case of the PSG program, the State demonstrated that trends with the PSG program show that it has the potential to achieve the emission reductions claimed. Furthermore, the state committed to specific target levels or participants and corresponding emission reductions. Should the target levels not be met, the state is responsible for the shortfall and must make up the shortfall through other measures. Enforcement of these measures is available under the SIP against the State should it not timely reconcile any emission reduction shortfall. Based on this information, EPA determined that the expectations of the PSG program are reasonable and that there are enough evaluation periods to assure that the 2004 emission reductions goals are met. EPA does not believe that the PSG program should be considered as part of the additional WOE and did not consider it in the WOE evaluation. See 66 FR 57159, 57190 (November 14, 2001) for further information.

Comment 12

EPA's basis for allowing Georgia to reject most of the control measures reviewed for RACM is arbitrary and capricious, and not supported by law. Comments submitted to EPA in response the Agency's supplemental RACM notice in October 2000 were incorporated by reference. In that proposal, EPA confirms Georgia's assertion that not a single additional control measure was reasonably available over the next five years to address ozone pollution in the Atlanta area. Such an extreme position is neither consistent with the CAA nor supported by the record.

Comment 13

EPA acknowledged that additional measures were available to reduce ozone levels in the Atlanta area, but were not ''reasonably available'' within the meaning of the statute because they purportedly would not advance the date of full attainment. EPA asserted that the RACM mandate was part of the CAA's requirement that plans demonstrate attainment ''as expeditiously as practicable,'' and that it would be unreasonable to require measures that do not advance the attainment date—even if those measures would reduce harmful ozone levels in the interim. The Agency's position conflicts with the CAA's requirement to adopt all RACM in addition to the requirement for timely attainment and for the SIP to eliminate or reduce the severity and number of violations of the NAAQS . These provisions require ozone SIPS to

demonstrate attainment of the ozone standard ''as expeditiously as practicable, but no later than'' area's attainment date. 42 U.S.C. §§ 7511(a)(1), (c)(2)(A). EPA wrongly presumes that the sole purpose of SIPs is to achieve full attainment by the deadline, and that healthier air in the interim is irrelevant. This conflicts with the CAA's public health purpose. The CAA's mandates for interim progress in years prior to attainment to provide air quality benefits well in advance of full attainment. The State concedes that some additional control measures not rejected on other grounds will reduce NO_X and VOC emissions, but rejects even those measures on the ground that they will not advance attainment. EPA inexplicably insists that such controls are not ''reasonable'' unless they solve the whole problem. Such a position conflicts with CAA's text and purpose and lacks any rational basis.

Comment 14

Neither the State nor EPA has quantified the level of local emission reductions that would be needed to advance the attainment date. EPA may not reasonably conclude that sufficient control measures are not available to satisfy this test until it first determines the amount of emission reduction needed to meet this requirement, and then determines that measures considered by the State and other measures proposed by other stakeholders and not considered by the State, do not achieve sufficient reductions to meet this test. To show the actual impact of additional controls on air quality, EPA would need to conduct photochemical grid modeling. Instead, EPA has estimated the ambient impact of the emissions reductions expected from the small suite of measures not rejected by Georgia, and applied the absurd ratio of 1 ppb to 41.5 t/d NO_X discussed above to show that no air quality benefit would result. This approach is arbitrary for several reasons.

EPA failed to consider the potential emission reduction benefits of all of the available measures. EPA further failed to consider potential ozone reduction benefits from the combined implementation of strategies to reduce overall motor vehicle traffic (''transportation control measures'' or ''TCMs''). EPA refused to consider the potential emission reduction benefits of such combined implementation, asserting that it ''would be impossible to analyze a seeming infinite set of combinations of measures for possible benefits.''

Absent a constitutional prohibition against the implementation of such measures, there is no legal bar to the consideration of such measures. Nor were these measures considered in the 1997 Georgia State report since federal tax laws supporting such strategies had not yet been enacted, and the measures had not been tried in other states and shown to be effective. The analysis provided by the State is wholly inadequate with respect to considering the cumulative effect on travel demand and SOV use in the Atlanta area if an aggressive, and comprehensive Commuter Choice program were developed and implemented in the region.

Given EPA's issuance of Guidance to the States supporting the development of such programs, it is especially unreasonable for EPA not to require that the air quality benefits of such a program be fully characterized and considered for adoption as a reasonably available control measure.

Response 12, 13, and 14

Georgia EPD performed a RACM analysis for potential control of NO_X and VOC emission sources not included in the attainment demonstration for the Atlanta 1-hour ozone nonattainment area. Each control option was evaluated according to: (1) The State's authority to implement controls; (2) the amount of NO_X reductions; (3) the amount of VOC reductions; (4) whether a similar control measure is already being implemented in the SIP; (5) the cost effectiveness of the control; (6) whether SIP credit has already been taken for the measure; and (7) whether the measure can be implemented to achieve reductions during the 2003 ozone season, (measures implemented after the 2003 ozone season cannot advance the 2004 attainment date). Any measures determined to be feasible to implement after the above described evaluation were grouped, by primary category, under the heading ''Remaining measures.''. After further analysis of potential controls on each of the above sources, GAEPD concluded that it was not reasonable or practicable to further control these sources. Specifically, for many of the sources GAEPD stated that the time required to implement controls is unpredictable because legislative action authorizing such regulation by GAEPD would be required, or the number of facilities and potential discharge points affected by these control measures would require a tremendous increase in GAEPD resources to implement and ensure compliance (see 66 FR 63982 for further information.). Therefore, GAEPD concluded that these measures could not be implemented in time to achieve reductions by 2003. EPA agrees with the RACM analysis.

The EPA's approach toward the RACM requirement is grounded in the language of the CAA. Section 172(c)(1) states that a SIP for a nonattainment area must meet the following requirement, ''In general.—Such plan provisions shall provide for the implementation of *all reasonably available control measures as expeditiously as practicable* (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall *provide for attainment of the national primary ambient air quality standards.''* [Emphasis added.] The EPA interprets this language as tying the RACM requirement to the requirement for attainment of the national primary ambient air quality standard. The CAA provides that the attainment date shall be ''as expeditiously as practicable but no later than * * *'' the deadlines specified in the CAA. EPA believes that the use of the same terminology in conjunction with the RACM requirement serves the purpose of specifying RACM as the way of expediting attainment of the NAAQS in advance of the deadline specified in the CAA. As stated in the ''General Preamble'' (57 FR 13498 at 13560, April 16, 1992), ''The EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area *as components of the area's attainment demonstration.''* [Emphasis added.] In other words, because of the construction of the RACM language in the CAA, EPA does not view the RACM requirement as separate from the attainment demonstration requirement. Therefore, EPA believes that the CAA supports its interpretation that measures may be determined to not be RACM if they do not advance the attainment date. In addition, EPA believes that it would not be reasonable to require implementation of measures that would not in fact advance attainment (see 57 FR 13560). EPA has historically taken this interpretation and consistently implemented it through guidance since 1979 (see 44 FR 20372, 20375, April 4, 1979).

The term ''reasonably available control measure'' is not actually defined in the definitions in the CAA. Therefore, the EPA interpretation that potential measures may be determined not to be RACM if they require an intensive and costly effort for numerous small area

sources is based on the common sense meaning of the phrase, ''reasonably available.'' A measure that is reasonably available is one that is technologically and economically feasible and that can be readily implemented. Ready implementation also includes consideration of whether emissions from small sources are relatively small and whether the administrative burden, to the States and regulated entities, of controlling such sources was likely to be considerable. As stated in the General Preamble, EPA believes that States can reject potential measures based on local conditions including cost. 57 FR 13561.

Also, the development of rules for a large number of very different source categories of small sources for which little control information may exist will likely take much longer than development of rules for source categories for which control information exists or that comprise a smaller number of larger sources. The longer the time frame for development of rules by the State would decrease the possibility that the emission reductions from the additional rules in the nonattainment area would advance the attainment date earlier than would be achieved from the larger amount of reductions expected from upwind controls, such as from the NO_X SIP Call and controls from upwind severe areas with later statutory attainment dates.

Commenter's argument that the RACM requirement requires interim reductions in addition to the duty to demonstrate timely attainment is incorrect. Although various CAA provisions do require interim reductions, *see, e.g.,* sections 7502(c)(2), 7511a(b)(1) and (c)(2)(B), nothing in the CAA indicates that areas must use the measures required by section 7502(c)(1) to reach these interim goals. Instead, the RACM provision in section 7502(c)(1) refers only to the obligation to demonstrate timely attainment. EPA reasonably concluded that interim reduction requirements could be met by any measures selected by the states, and that section 7502 requires implementation in areas that have met RFP requirements only if such reasonably available control measures as will provide for timely attainment of the NAAQS. As noted above, Atlanta has met its 15 percent and 9 percent ROP requirements.

Another appellate court recently upheld EPA's interpretation of the corresponding RACM provisions for particulate matter (PM–10) in section 7513a(a). *Ober* v. *Whitman*, 243 F.3d 1190 (9th Cir. 2001). There, EPA applied a two-part test in determining whether controls on certain sources of de minimis PM–10 emissions would need to be implemented as RACM—looking first at the actual amount of emissions and then at whether control of those emissions would contribute to attainment as expeditiously as practicable. *Id.* at 1193, 1196. The court upheld EPA:

Using the [attainment] deadline to determine whether controls must be imposed makes sense. The deadline is not an arbitrary date unrelated to air quality concerns. * * * In this case, the [plan] concludes that the deadline will not be met even if these small sources of PM–10 were controlled. Under those circumstances, it is reasonable to decline to control the de minimis sources of pollution.

Id. at 1198. EPA reasonably concluded here that section 7502(c)(1) similarly does not require implementation of measures that will not contribute to attainment as expeditiously as practicable.

Comment 15

The State does not include any of the measures required for severe areas. In view of its bump-up to severe by operation of law, the SIP must include the measures required by section 182(d), including reasonable further progress reductions for the years after 1999.

Response 15

As noted in the response to comments 2–4, no bump-up by operation of law occurred due to any purported failure to submit the appropriate milestone compliance demonstration.

Comment 16

The Atlanta SIP fails to include the contingency measures required by section 172(c)(9) and 182(c)(9). This proposal is unlawful because it proposes to rely on excess emissions reductions that do not exist, and relies on federal measures not dependent on the attainment status of the nonattainment area.

Response 16

Section 172(c)(9) and 182(c)(9) of the CAA require SIPs to contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date or to meet rate-of-progress (ROP) deadlines. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) and 182(c)(9) in the April 16, 1992, General Preamble for Implementation of the CAA (see 57 FR 13498, 13510). In that guidance, EPA indicated that states with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative reviews. The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the reasonable further progress requirements for moderate areas (i.e., 3 percent per year), and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions.

EPA has also determined that promulgated federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) and 182(c)(9) have been met. While these measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing federally enforceable measures can be used to provide the necessary substantive relief. Therefore, federal measures may be used in the analysis, to the extent that the attainment demonstration does not rely on them or take credit for them (see, e.g., 66 FR 586, 615, January 3, 2001, and the memorandum from G.T. Helms dated August 13, 1993, ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide Nonattainment Areas''.)

EPA believes the contingency measure requirements of sections 172(c)(9) and 182(c)(9) are independent requirements from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A) and the ROP requirements under sections 172(c)(2) and 182(c)(2)(B). The contingency measure requirements are to address the event that an area fails to meet a ROP milestone or fails to attain the ozone NAAQS by the attainment date established in the SIP. The contingency measure requirements have no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS or the required

ROP reductions toward attainment. The attainment or ROP SIP provides a demonstration that attainment or ROP requirements ought to be fulfilled, but the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment or ROP SIP. However, EPA believes that areas should have sufficient reductions to meet contingency measure requirements, even if a contingency measure SIP has not been approved, in order to receive an attainment date extension.

EPA has examined the 15 percent ROP and 9 percent ROP plans which were submitted to EPA on June 17, 1996. EPA believes that substantive contingency measure requirements can be met by surplus reductions already achieved in the ROP plans. EPA granted approval to the 15 percent ROP in a **Federal Register** published on April 26, 1999, (64 FR 20186). The 9 percent ROP was approved in a **Federal Register** published on March 18, 1999, (64 FR 13348). Detailed information relating to the calculation of Georgia's 1990 adjusted baseline inventory for VOC and NO_X emissions for the Atlanta area can be found in the above referenced **Federal Register** actions. The adjusted baseline inventory for VOC found in Georgia's 15 percent ROP is 526.19 tpd and the adjusted baseline inventory for NO_X found in the 9 percent ROP is 483.12. Therefore, the required 3 percent ROP reductions would be 15.79 tps for VOC (0.03 x 526.19 = 15.79) and 14.50 tpd for NO_X (0.03 x 483.12 = 14.5). In the 15 percent ROP Georgia exceeds the required VOC emissions reduction by 1.06 tpd. This equates to 0.20 percent of the required 3 percent reduction, leaving a balance of 2.80 percent to be made up by NO_X reductions. This must be 2.8 percent of the NO_X adjusted baseline inventory. Therefore, the required NO_X reductions to satisfy contingency requirements for ROP equal 13.53 tpd (0.0280 x 483.12). The 9 percent ROP achieves an excess NO_X emissions reduction of 19.47 tpd. Thus, the excess emission reductions achieved in the ROP plans meet the 3 percent contingency requirement.

Additionally, EPA examined the attainment demonstration for the Atlanta area submitted on July 17, 2001, for contingency measures. Although no measures have been specifically designated as contingency measures, EPA has found that measures that could reasonably constitute appropriate contingency measures are already contained in the SIP or exist in promulgated federal regulations. These measures include additional reductions after 2004 from EPA's Tier 2 tailpipe standards, national low emission vehicle program, and heavy duty diesel emission standards for 2004. Additionally, the Atlanta area will benefit from fleet turnover, as well as an additional model year of light duty vehicles subject to on-board diagnostic (OBD) testing. These measures will continue to provide reductions after November 2004, the attainment date EPA is approving for the Atlanta area. The measures are estimated to reduce emissions in the area by 1.45 percent of the 1990 VOC adjusted baseline emissions and 3.31 percent of the 1990 NO_X adjusted baseline emissions by 2005 (the year following the time by which EPA must determine whether the area has attained). More details on EPA's contingency measure analysis are included in the docket for this rulemaking action. While there is not an approved contingency measure that would apply if the Atlanta area failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief sufficient to provide the basis for granting an extension to the area's attainment date. These federally enforceable measures were not accounted for in GAEPD's modeling and are therefore excess emission reductions.

Comment 17

The commenter believes that Georgia's Offset Rule is not being implemented in such a way as to provide for zero growth.

Response 17

The facility in question is one of a group of electric generating utilities that are subject to a special 7-plant average emissions limit. A revised application from the facility dated December 21, 2001, proposed an overall ton per ozone season limit for all of the companies' facilities subject to the 7-plant average. These limits will be placed in the facility's permits. Total emissions for the seven plants will not increase, and in fact, due to the early reductions and offset credit, will decrease. It is possible that some individual units may experience an increase in emissions, and hypothetically, these units could be located in the Atlanta non-attainment area. It is also possible that the units in the nonattainment area could be the ones experiencing the decreases in emissions.

EPD's assumption of zero growth is reasonable, given that (1) overall emissions for the seven plants will decrease; (2) exact locations of the decreases and increases were unknown at the time of the SIP demonstration and are still unknown today; (3) emissions from 2003 to 2004 for counties outside the non-attainment were calculated to reflect growth but may, due to the 7-plant limit mentioned above, experience a decrease in emissions; and (4) zero-growth in the 13-county non-attainment area was assumed only between 2003 and 2004. In fact, emissions were grown from 1999 to 2003, a period where zero-growth is expected due to the offset rule, making the assumption of zero growth a very conservative one.

In the future, Georgia EPD will continue to implement its Offset Rule in a manner that no leakage will occur, resulting in zero-growth or a decrease in emissions.

Comment 18

ARTBA supports approval of the attainment demonstration for the Atlanta area because approval is the only reasonable action.

Response 18

EPA agrees with the commenter.

Comment 19

Reclassification to severe nonattainment would not shorten the time for meeting Atlanta's air quality goals. In fact, it would extend the time for compliance to at least 2005. Regardless of whether EPA grants an extension pursuant to the downwind extension policy, EPA is prohibited from reclassifying the Atlanta area under Subpart 2 of the federal CAA. Under 42 U.S.C. 7509(c), an area can be reclassified only if EPA makes a formal finding ''[w]ithin 6 months following the applicable attainment date'' that the area failed to attain the ozone NAAQS. EPA did not make such a determination within six months of the nominal 1999 attainment deadline for the Atlanta area, and thus is now prohibited from doing so.

Response 19

EPA is not reclassifying the area at this time, but rather is granting an extension of the area's attainment date to November 2004. EPA agrees that reclassification must be based on a notice and comment rulemaking. See D.C. Circuit Slip opinion *Sierra Club* v. *Whitman* No. 01–5123 and 015299 April 5, 2002, Slip Opinion (D.C. Cir). EPA has not yet issued a rulemaking containing a final determination of whether Atlanta attained by its

attainment date. EPA does not agree, however, that missing a mandatory deadline means that EPA loses the power to act to discharge the duty to which the deadline applied. EPA retains the power to act to discharge the duty after the deadline has passed. *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 121 F.3d 106, 113–114 (3d Cir. 1997). (EPA does not lose power to perform mandatory duty to act on redesignation request after 18-month statutory period has elapsed).

As noted in the response to comments 2–4, no bump-up by operation of law occurred due to any purported failure to submit the appropriate milestone compliance demonstration.

Comment 20

ARTBA recognizes that interest groups have threatened legal challenges of both the EPA extension policy and the proposed attainment demonstration for Atlanta. EPA should not allow the threat of legal challenge to cloud its judgment in approving this attainment demonstration. The practical effect of a legal challenge for the Atlanta transportation planners would be for the current transportation plan (at the time of invalidation) to remain in place because legal challenges would not have a retroactive effect. In the alternative, a disapproval and reclassification of the nonattainment area by EPA might cause air quality goals and transportation plans to be delayed because it would force Atlanta to develop a new state implementation plan and may require current transportation plans to shift to achieve conformity.

Response 20

EPA agrees with many of the comments made by the Commenters that correctly point out certain provisions in the conformity rule. However, several of the comments are taken out of context. The commenter notes that 40 C.F.R. § 93.118(e)(3) and proposed rule changes (see 66 FR 50954 and 50958, October 5, 2001) provide any finding of conformity for transportation plans or transportation improvement programs (TIPs) to a motor vehicle emission budget (MVEB), prior to an invalidation of a state implementation plan (SIP) containing that MVEB, would continue to be valid. The commenter further states, ''As a policy matter, it is common sense for projects in an approved transportation improvement program to proceed, even when a SIP is subsequently invalidated, because those projects have been deemed by the state and regional planner to be essential in improving air quality, reducing congestion, improving mobility and access, and/or preventing traffic fatalities.'' This statement, however, is not correct. This rule provision recognizes that at some point the planning process must proceed, and recognizing that at the time the transportation plan and TIP were developed and approved, the latest applicable MVEB was used. However, the SIP containing the budget is subsequently disapproved (without a protective finding on the budget), only those projects in the first three years of the TIP, exempt and Transportation Control Measures in approved SIPs can proceed. This provision allows for recognition of the cost and resources expended by the transportation planners to this point in the process. Contrary to the commenter's statement, it does not imply that even if a SIP becomes invalid that the reason projects can proceed is because they were deemed to be essential by the state and regional planner.

The commenter also states, ''In the case of Atlanta, its conformity determination would remain valid, if approved based on the January 8, 2002, adequacy determination or based on approval of the attainment demonstration at issue in the current rulemaking, regardless of any future SIP withdrawal or invalidation, until conformity would have otherwise lapsed of due course pursuant to EPA regulations at 40 C.F.R. § 93.104.'' The current 2025 transportation plan and FY 2002–04 TIP for Atlanta, Georgia were found in conformity to the 15 percent and 9 percent rate of progress SIP MVEBs. These were the latest approved budgets in the SIP at the time of transportation plan and TIP approval. The January 8, 2002, finding of adequacy is on the 1-hour attainment SIP. Presently, no finding of conformity has been made for this or any other attainment MVEB. While the conformity rule requires 18 months to redetermine conformity to the budget found adequate on January 8, 2002, this action has not yet occurred. The date by which the conformity redetermination for the new budget must be completed for the transportation plan and TIP would likely be 18 months from the date of the finding of adequacy on the budget. (EPA's proposed rule change, dated October 5, 1999, would start the 18-month trigger on the date of adequacy for a new SIP budget versus the date of a SIP submittal as currently required. Per this rule, a new SIP budget refers to an initial SIP submission for a given CAA requirement.)

Another statement made by the commenter refers directly to the 18-month clock to re-determine conformity. It stated (reference to the October 28, 1999, SIP and its budget), ''Although this motor vehicle emissions budget was later withdrawn, conformity was determined within the required 18-month period. Any subsequent adequacy determination on a resubmitted budget would not be an initial SIP submission and would not trigger the 18-month ''conformity clock'.'' This statement is incorrect. First, no finding of conformity to the 1999 SIP budget was ever made. In addition, the purpose of the 1999 SIP submission was to demonstrate attainment by 2003. Because of a court decision regarding the nitrogen oxides SIP, the state developed and submitted a new SIP for the purpose of demonstrating attainment by 2004. Since conformity was never done to the 2003 attainment SIP and that SIP has since been replaced, the 2004 attainment SIP is considered an initial submission. Therefore, it started a new 18-month conformity schedule. When the 1999 SIP was withdrawn, the 18-month conformity schedule for that SIP was no longer applicable. When the new SIP was submitted in July 2001, a new 18-month conformity schedule began. Therefore, under the 18-month schedule for redetermining conformity to the MVEB in the July 2001 SIP (with an attainment date of 2004), the deadline is likely to be July 2003. (EPA's proposed rule change, dated October 5, 1999, would start the 18-month trigger on the date of adequacy for a new SIP budget versus the date of a SIP submittal. Should this rule be finalized, conformity will be required to the budget found adequate in January 2002 by July 2003.) Currently, a transportation plan is under development, with a schedule for adoption and conformity redetermination in late 2002. This action is intended to satisfy the 18-month conformity schedule for redetermining conformity to the most recent applicable SIP MVEB.

EPA does agree that the area should attain as expeditiously as practicable. However, EPA believes this can best be achieved by implementation of the submitted control strategy. Therefore, EPA intends to approve the 1-hour ozone attainment demonstration for the Atlanta area.

Response to Comments Received Relating to the Proposed Rule Published in the ***Federal Register*** *on December 16, 1999, See 64 FR 704787, Still Relevant to Today's Action*

Comment 1

There is no evidence in the submittal that the Governor has endorsed the SIP as required by 40 CFR 93.118(e)(4)(i).

Response 1

According to 40 CFR 93.118(e)(4), EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied:

(i) The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his designee) and was subject to a State public hearing.

The Georgia Air Quality Act, Article 1, Section 12–9–6 ''Powers and Duties of Director as to Air Quality Generally'' designates the Director of the Environmental Protection Division of the Department of Natural Resources of the State of Georgia to exercise general supervision over the administration and enforcement of this article and all rules, regulations, and orders promulgated under this article. The motor vehicle emissions budget was the subject of public hearings held on July 7, 1999, and September 8, 1999. The October 1999 State Implementation Plan (SIP) and subsequent supplemental SIP revisions were submitted via letter from Mr. Harold F. Reheis, the current Director of the Georgia Department of Natural Resources.

Comment 2

Commenter believes Georgia should increase information to the public on air quality. Commenter believes that year round data collection and more public information in a consumer friendly index format (e.g. UV index or other meteorological information) would help all citizens understand their risk and the dimensions of the problems.

Response 2

Through the Partnership for a SMOG-Free Georgia, one of the control measures, the public is provided information on air quality. The Georgia Department of Natural Resources' Environmental Protection Division (EPD) issues ozone forecasts throughout the ozone season, i.e., SMOG Alerts. In addition to the SMOG Alerts, the EPD provides, to the public, real-time air quality concentration data throughout the year for several measured ambient air pollutants through their internet web site (*GOTOBUTTON BM_1_ http://www.air.dnr.state.ga.us/*). Because ground level ozone is a health concern in Georgia only during the ozone season (March 1 through October 31), the EPA does not require EPD to monitor or provide public information for ozone year round.

Comment 3

Air emissions associated with the Norfolk Southern Railway Company's proposed intermodal transportation facility are likely to cause or contribute to continuing violations of the ozone standard and other air quality standards in and around Cobb County and to pose threats to public health. Regulations addressing this facility should be included in the SIP submittal.

Response 3

Specific emissions from the Norfolk Southern Railway Company's proposed facility may not have been included in the ozone modeling demonstration for the Atlanta nonattainment area. However, they were included in the projected emissions for Cobb County for this source category. EPA accepts the modeling and supporting weight of evidence analysis to identify additional controls as being representative of a demonstration to achieve the attainment of the 1-hour ozone standard. Regulations were developed for the controls used in this demonstration. It does not appear that specific controls at this facility were needed to achieve attainment of the 1-hour ozone NAAQS for the Atlanta nonattainment area. As such, regulations addressing this facility are not included in the SIP.

Comment 4

If the air emissions associated with the railroad facility were not consider in establishing the mobile source budget, future operation of the facility may render the budget inadequate to demonstrate attainment.

Response 4

Railroad emissions are not part of the motor vehicle emissions budget for onroad motor vehicles but rather are included in the inventory for nonroad motor vehicles. Railroad facility emissions were used in the development of Georgia's attainment demonstration and nonroad mobile source emissions inventory. All known future activity from railroads/yards were accounted for in the inventory development. Georgia's Nonroad mobile source inventory for 1990 was developed using an EPA Nonroad database developed for all nonattainment areas. All emission inventories for other years that were used in the attainment modeling demonstration were developed using Bureau of Economic Analysis (BEA) data. The database was developed in accordance with EPA's guidance document entitled ''Procedures for Emission Inventory Preparation Volume IV: Mobile Source.'' Chapter 6 illustrates how emissions from locomotives are to be developed. Railroads are separated into three classes based upon size: Class I, Class II and Class III. Locomotives within each of the Classes can perform two different types of operations: line haul and yard (or switch). Furthermore, it is EPA's understanding that Georgia took into consideration the Austell Report regarding the proposed CSX rail yard move. This report shows that emissions from this move will decrease.

Comment 5

Letter to Georgia EPD requesting that proposed Norfolk Southern intermodal facility not be constructed or operated absent adoption of regulations and/or permit conditions to ensure necessary emission controls. Supporting documentation is included.

Response 5

The Norfolk Southern intermodal facility is a minor source in Cobb County. Permits are not required for these minor sources in Georgia.

Comment 6

EPD should require non-road diesel engines to use the proposed Georgia Diesel Fuel (CA style).

Response 6

In the October 1999 SIP submittal, the GAEPD listed several control measures, including low sulfur diesel, that would be studied to ensure that the 1-hour ozone standard will be met and to make progress towards attaining the 8-hour ozone standard. GAEPD investigated the potential for this type of control and met with the Georgia Petroleum Council to discuss this option, as well as the option for implementing a low sulfur/low Reid Vapor pressure gasoline. Since that time, GAEPD has implemented a control program requiring the low sulfur/low Reid Vapor gasoline, and is actively engaged in EPA's voluntary Heavy Duty Diesel Retrofit program. Through this program, GAEPD is encouraging the use of low sulfur diesel in combination with retrofitted diesel engines for construction equipment at the airport, auxiliary powered units, school bus fleets and so forth. GAEPD is working in partnership with engine manufacturers,

municipalities, the City of Atlanta, EPA, and several refineries on this effort. GAEPD abandoned its efforts to mandate low sulfur diesel when EPA promulgated its Heavy Duty Diesel rule on January 18, 2001. This rule establishes a comprehensive national control program that will regulate the heavy-duty vehicle and its fuel as a single system. As part of this program, new emission standards will begin to take effect in model year 2007 and will apply to heavy-duty highway engines and vehicles. Additionally, this program requires a 97 percent reduction for the level of sulfur in highway diesel fuel by mid-2006.

Comment 7

Under the extension policy the state must have adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment. The commenter does not believe all of Georgia's additional measures have been adopted.

Response 7

On January 31, 2000, and July 31, 2000, the Georgia Environmental Protection Division (GAEPD) submitted revisions to the October 28, 1999, 1-hour ozone attainment demonstration for the Atlanta serious ozone nonattainment area. The purpose of these revisions was to address the level of additional reductions for attainment (i.e., the shortfall) and to identify the controls to achieve the additional reductions. GA EPD used EPA's 1999 guidance to identify the additional reduction in NO_X and VOC needed for attainment. The additional control measures adopted represent the open burning ban for industrial, residential, commercial, prescribed and slash purposes for attainment counties, additional electric generating units controls for utilities, and a new combustion turbine regulation. GA EPD has adopted all applicable local measures required for a serious 1-hour ozone nonattainment areas and other additional control measures necessary to demonstrate attainment per the EPA attainment date extension policy and modeling guidance. A final rule on the regulations for the Atlanta attainment strategy was published in the **Federal Register** on July 10, 2001, (66 FR 35906) and became effective on August 9, 2001. Please see the **Federal Register** actions published on December 16, 1999, (64 FR 70478) and December 11, 2001, (66 FR 63972) for further information.

Comment 8

It is not clear that Georgia is ''affected by transport'' of ozone precursors in a manner contemplated by the extension policy. Significant effects are not apparent from EPA's Finding of Significant Contribution & Rulemaking for Certain States in the Ozone Transport Assessment Group for Purposes of Reducing Transport of Ozone, 62 FR 60318 (November 7, 1997). Explain specifically the extent to which upwind sources of air pollution are ''significant'' and the specific basis for EPA's conclusion.

Response 8

EPA provided all the evidence and supporting documentation that Atlanta is significantly affected by transport from upwind states, in the manner contemplated by the extension policy, in the nitrogen oxides (NO_X) State Implementation Plan (SIP) Call rulemaking (63 FR 57356, Oct. 27, 1998). This rule was upheld by the court in *Michigan* v. *EPA*, 213 F. 3d 663 (D.C. Cir. 2000).

The SIP for bringing the Atlanta area into compliance with the 1-hour ozone National Ambient Air Quality Standards (NAAQS) relies upon reductions from implementation of the NO_X SIP Call implemented in upwind states. Appendix G of the EPA NO_X SIP TSD referenced above, ''Evaluation of Contributions—Tables of Metrics, 1-Hour CAMX: Upwind States to Downwind States,'' page G–6, gives average contributions to an Atlanta area exceedance as follows: Alabama, 8 percent; Kentucky, 1 percent; North Carolina, 1 percent; South Carolina, 1 percent; and Tennessee, 4 percent for a total contribution of 15 percent. The State calculated the effect on a monitored exceedance occurring at 125 ppb, the result being a contribution of 18.6 ppb (125 ppb $\times$ 15 percent). The implementation of the NO_X SIP Call in 2004 would reduce the contribution to ozone exceedances by 18.6 ppb. Thus, EPA has indicated that Georgia is affected by upwind transport.

IV. Final Action

Today, EPA is granting final approval to the 1-hour ozone attainment demonstration for the Atlanta area as submitted on July 17, 2001, the RACM analysis, commitment to perform an early attainment assessment, contingency measures, the 2004 MVEB, and the PSG program. Additionally, EPA is extending the attainment date to November 15, 2004. The Atlanta area will remain a serious nonattainment area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for

failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 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, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 29, 2002.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.570 is amended by adding a new entry 18 to the table in paragraph (e) to read as follows:

§ 52.570 Identification of Plan.

* * * * *

(e) EPA Approved Georgia Nonregulatory Provisions

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date
* * *	*	* *	*
18. Georgia's State Implementation Plan for the Atlanta Ozone Nonattainment Area.	Atlanta Metropolitan Area	July 17, 2001	May 7, 2002.

[FR Doc. 02–11176 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 261–0337c; FRL–7171–5]

Interim Final Determination That State has Corrected a Deficiency in the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving a revision to the California State Implementation Plan (SIP). EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's direct final action, EPA will withdraw its direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the proposed approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on October 13, 2000. This action will defer the imposition of offset and highway sanctions. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's approval of the State's submittal, the direct final action published in today's **Federal Register** will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This interim final determination is effective May 7, 2002. Comments must be received by June 6, 2002.

ADDRESSES: Written comments must be submitted to Andy Steckel at the Region IX office listed below. Copies of the rule revision and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460.

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.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 947–4117.

SUPPLEMENTARY INFORMATION:

I. Background

On September 29, 1998, the State submitted a revision to the SIP, which EPA disapproved in part on September 13, 2000. (65 FR 55193). EPA's disapproval action started an 18-month clock for the imposition of one sanction

(followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted a revised rule on February 20, 2002. EPA has taken direct final action on this submittal pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's **Federal Register**, EPA has issued a direct final full approval of the State of California's submittal of its revision to the SIP. In addition, in the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiencies have been corrected.

This action does not stop the sanctions clock that started for this area on October 13, 2000. However, this action will defer the imposition of offsets and highway sanctions. If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. If EPA must withdraw the direct final action based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiencies, EPA will also determine that the State did not correct the deficiencies and the sanctions consequences described in the sanctions rule will apply. *See* 40 CFR 52.31.

II. EPA Action

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

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

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

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

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

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

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

E. Executive Order 13175

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

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

F. Regulatory Flexibility Act

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

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

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

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

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

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

I. Submission to Congress and the Comptroller General

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

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 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 regulations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Dated: March 29, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 02–11173 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 261–0337a; FRL–7171–3]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from adhesives. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 8, 2002 without further notice, unless EPA receives adverse comments by June 6, 2002. 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 revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building,

1200 Pennsylvania Avenue, NW., Washington D.C. 20460.
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.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4117.

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

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I. The State's Submittal

A. What Rule Did the State Submit?

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

TABLE 1.—SUBMITTED RULE.

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4653	Adhesives	12/20/01	02/20/02

On March 15, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

We approved a version of Rule 4653 into the SIP on September 13, 2000. The SJVUAPCD adopted revisions to the SIP-approved version on December 14, 2000 and December 20, 2001. CARB submitted those revisions to us on March 14, 2001 and February 20, 2002. While we can act on only the most recently submitted version, we have reviewed materials provided with the previous submittal.

C. What Is the Purpose of the Submitted Rule Revision?

The rule revision was submitted to correct deficiencies identified by us in our September 13, 2000 rulemaking. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

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). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 4653 must fulfill RACT.

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

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24,1987 **Federal Register** Notice,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
3. The California Air Resources Board's *Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants,* dated December 1998.

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

C. EPA Recommendations to Further Improve the Rule

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

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills 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 rule. If we receive adverse comments by June 6, 2002, 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 July 8, 2002. This will incorporate this rule into the federally enforceable SIP and permanently terminate all sanctions and Federal Implementation Plan (FIP) clocks associated with EPA's September 13, 2000 limited disapproval of a previous version of this rule.

III. Background Information

Why Was This Rule Submitted?

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

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.

TABLE 2—OZONE NONATTAINMENT MILESTONES.—Continued

Date	Event
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

A. Executive Order 12866

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

B. Executive Order 13211

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

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

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

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

E. Executive Order 13175

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

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

F. Regulatory Flexibility Act

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

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

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

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995

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

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

H. National Technology Transfer and Advancement Act

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

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

I. Submission to Congress and the Comptroller General

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

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 29, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(294) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(294) New and amended regulations for the following APCD were submitted on February 20, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4653, amended on December 20, 2001.

* * * * *

[FR Doc. 02–11174 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC 42–200220(b); FRL–7207–2]

Approval and Promulgation of Implementation Plans; South Carolina: Approval of Miscellaneous Revisions to the South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 21, 2001, the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina State Implementation Plan (SIP). These revisions include the amending of volatile organic compounds (VOC's), prevention of significant deterioration (PSD), and other miscellaneous regulations. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

DATES: This direct final rule is effective July 8, 2002 without further notice, unless EPA receives adverse comment by June 6, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201–1708.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at *terry.randy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 2001, the South Carolina Department of Health and Environmental Control (SCDHEC) submitted revisions to the South Carolina SIP. These revisions include

the amending of volatile organic compounds (VOC's), prevention of significant deterioration (PSD), and other miscellaneous regulations. A description of each revision submitted is listed below.

II. Analysis of South Carolina's Submittal

Regulation 61–62, Air Pollution Control Regulations and Standards

.1 Section I, Definition 94. The definition of VOC was revised to include volatile methyl silicates.

.1 Section II, Permit Requirements; Part B(1). This section was revised to clarify when the written request for an operating permit is due.

.5 Standard 1, Emissions From Fuel Burning Operations; Section I.A. This section was revised to clarify the opacity requirements for existing sources. Section I.B. This section was revised to clarify the opacity requirements for new sources.

.5 Standard 4 Emissions from Process Industries; Section XI, and .5 Standard 5, Volatile Organic Compounds; Section I, Part C. These sections were revised to update a reference to the Clean Air Act.

.5 Standard 5 Volatile Organic Compounds Section I, Part A. This section was amended to correct the definition of ''petroleum liquids.'' Section II, Part A(2). This section was amended to add language to aid in the clarity of the regulation.

.5 Standard 7. Prevention of Significant Deterioration. This regulation was replaced in whole to adopt a new regulation that incorporates the Federal Amendments.

The following sections were amended to correct minor typographical errors—

.3 Section I, Air Pollution Episodes Numbers 2,3,4

.5 Standard 4 Emissions From Process Industries
Section V, and Section VIII

.5 Standard 5 Volatile Organic Compounds
Section I, Part D; Section I, Part E(1); Section I, Part F(3); Section II, Part F(2); and Section II, Part N(4).

.6 Standard, Alternative Emission Limitation Options
Title, Section IV and Part A.2

III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 8, 2002 without further notice unless the Agency receives adverse comments by June 6, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 8, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 July 8, 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 8, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows.

PART 52—[AMENDED]

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

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

Subpart II—South Carolina

2. Section 52.2120(c) is amended by revising:

a. Regulation No. 62.1, entries for ''Section I'' and ''Section II'';

b. Regulation No. 62.3 entry for ''Section I'';

c. Regulation No. 62.5 Standard No. 1 entry for ''Section I'';

d. Regulation No. 62.5 Standard No. 4 entries for ''Section V'', ''Section VIII'', and ''Section XI'';

e. Regulation No. 62.5 Standard No. 5 entries for ''Section I'' and ''Section II, Part A, Part E, Part F and Part N'';

f. Regulation No. 62.5 Standard No. 6 title and entry, and ''Section II, Part A''; and

g. Regulation No. 62.5 Standard No. 7 entire entry, to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Regulation No. 62.1	Definitions, Permits Requirements, and Emissions Inventory			
Section I	Definitions	10/26/01	May 7, 2002	[Insert citation of publication].
Section II	Permit requirements	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Regulation No. 62.3	Air Pollution Episodes			
Section I	Episode Criteria	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Regulation No. 62.5	Air Pollution Control Standards			
Standard No. 1 Emissions from Fuel Burning Operations				
Section I	Visible Emissions	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Standard No. 4 Emissions from Process Industries				
*	*	*	*	*
Section V	Cotton Gins	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Section VIII	Other Manufacturing	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills.	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*
Standard No. 5 Volatile Organic Compounds				
Section I	General Provisions	10/26/01	May 7, 2002	[Insert citation of publication].
Section II Provisions for Specific Sources				
Part A	Surface Coating of Cans	10/26/01	May 7, 2002	[Insert citation of publication].
*	*	*	*	*

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Part E	Surface Coating of Magnet Wire	10/26/01	May 7, 2002	[Insert citation of publication].
Part F	Surface Coating Miscellaneous Metal Parts & Products.	10/26/01	May 7, 2002	[Insert citation of publication].
*	* * *	*	*	*
Part N	Solvent Metal Cleaning	10/26/01	May 7, 2002	[Insert citation of publication].
*	* * *	*	*	*
Standard No. 6 Alternative Emissions Limitation Options (''Bubble'')				
		10/26/01	May 7, 2002	[Insert citation of publication].
*	* * *	*	*	*
Section II Conditions for Approval				
Part A	Emissions of Total Suspended Particulate or Sulfur Dioxide.	10/26/01	May 7, 2002	[Insert citation of publication].
*	* * *	*	*	*
Section III Enforceability				
Standard No. 7 Prevention of Significant Deterioration				
		10/26/01	May 7, 2002	[Insert citation of publication].
*	* * *	*	*	*

[FR Doc. 02–11288 Filed 5–6–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7207–5]

Ocean Dumping; Site Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today modifies the designation of an Ocean Dredged Material Disposal Site (ODMDS)in the Atlantic Ocean offshore Charleston, South Carolina. The modification is to amend the restriction on use and shorten the site's name. This action is necessary to allow for disposal activities to continue as previously planned by the site's Task Force for management and monitoring.

EFFECTIVE DATE: This final rule is effective on June 6, 2002.

ADDRESSES: Send comments to: Wesley B. Crum, Chief, Coastal Section, Water Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Gary W. Collins, 404/562–9395.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to the Regional Administrator of the Region in which sites are located. The EPA Ocean Dumping Regulations promulgated under MPRSA (40 CFR chapter I, subchapter H, § 228.11) state that use of disposal sites may be modified.

Two ODMDS's were ultimately designated for Charleston in 1987. One was a 12-square mile site for deepening material. The second site was 3-square miles and was placed within the 12-square mile site. During the 1980's, additional benthic and sedimentological studies were conducted by the South Carolina Department of Natural Resources (SCDNR). In 1987, live bottoms were identified in the western portion of the 12-square mile site. Concerns regarding impacts to the living resources at the ODMDS encouraged EPA to place a restriction on the use of the 12-square mile site. The Final Rule regarding this restriction was published in the **Federal Register** March 5, 1991 stating, ''Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged material, except entrance channel material, shall be limited to that part of the site east of the line between coordinates 32°39′04″ N, 79°44′25″ W and 32°37′24″ N, 79°45′30″ W unless the materials can be shown by sufficient testing to contain 10% or less of fine material (grain size of less than 0.074mm) by weight and shown to be suitable for ocean disposal.'' This bisecting line was an immediate effort by EPA to protect live bottom resources initially reported by fishermen. The line was set with limited knowledge of the exact location and extent of those resources, and was set in a location that was believed to be as protective as possible at that time.

During this same time frame, an interagency group (EPA, SCDNR, COE and State Ports Authority) began working together to develop a monitoring and management plan (MMP) for the ODMDS. As part of this MMP process, construction of an L-shaped berm was developed approximately midway within the ODMDS. The COE began construction of the L-shaped berm using consolidated material from the last (42-foot) deepening project. The berm was evident on 1993 bathymetry. Also, as part of the MMP, the interagency group began looking for an area within the ODMDS for disposal of dredged material which would have the least impacts on the live bottom resources located in the western region of the site. A 4-square mile area (disposal box) was identified within the eastern half of the 12-square mile designated ODMDS and placed in position with the L-shaped berm as part of the western boundary. This location was approved by all the agencies involved, and placed where it would impact minimal reef habitat. At that time, the bisecting line should have been moved, but due to an oversight, it was not.

In 1995, EPA de-designated the smaller 3-square mile site and modified the larger site to allow for continued disposal of all material, not just deepening material. However, the COE agreed not to place any material outside of the 4-square mile disposal box. During the 1999–2000 (deepening project) dredging, a number of unauthorized dumps occurred to the west of the 4-square mile site. To date, studies indicate that some fine-grained material is present to the west of the 4-square mile site. It is unknown at this time whether the disposal material is moving from the ODMDS over the berms, from the berms, is part of the unauthorized dumps that occurred in 1999 and 2000, whether it is from the dispersion of the material during disposal activities at the site, or whether it is some combination of these four possibilities. Subsequent investigation and studies conducted by SCDNR to date have not identified adverse impacts at index reef sites being monitored. Other samples of the sand bottom benthic communities in areas that now have muddy sediments are still being processed.

The proposed rule for this action was published in the **Federal Register** on October 10, 2001 (66 FR 51628). Only one letter was received during the 45 day comment period and was supportive of this action.

B. EIS Determination

EPA has voluntarily committed to prepare Environmental Impact Statements (EIS) in connection with the designation of ocean disposal sites (39 FR 16186 (May 7, 1974)). The need for an EIS in the case of modifications is addressed in 39 FR 37420 (October 21, 1974), section 1(a)(4). If the change is judged sufficiently substantial by the responsible official, an EIS is needed.

The continued use of the Charleston ODMDS is vital to the management goals of the Plan. EPA believes these changes do not warrant the preparation of an Environmental Impact Statement (EIS).

EPA's primary concern is to provide an environmentally acceptable ocean disposal site for Charleston Harbor area dredging projects on a continued basis.

C. Site Modification

The site modification for the Charleston Harbor Deepening Project ODMDS is the removal of the line that restricts disposal of fine-grained material and the addition of four corner coordinates (4 square-mile disposal box) that will define where all dredged material must be placed within the ODMDS. In addition, the site's official name is being shortened to the Charleston ODMDS.

D. Regulatory Assessments

1. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the modification will only have the effect of providing an environmentally acceptable disposal option for dredged material on a continued basis. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

2. Executive Order 12866

Under Executive Order 12866, EPA must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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

3. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. As described elsewhere in this preamble, today's final rule would only have the effect of providing a continual use of an ocean disposal site pursuant to section 102(c) of MPRSA. Thus, Executive Order 13175 does not apply to this rule.

4. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because EPA does not have any reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. As described elsewhere in this preamble, today's final rule would only have the effect of providing a continual use of an ocean disposal site pursuant to section 102(c) of MPRSA.

5. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This 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. As described elsewhere in this preamble, today's final rule would only have the effect of providing a continual use of an ocean disposal site pursuant to section 102(c) of MPRSA. Thus, Executive Order 13132 does not apply to this rule. Although section 6 of Executive Order 13132 does not apply, EPA did consult with State officials in developing this rule and no concerns were raised.

6. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 6, 2002.

This Final Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: April 12, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as follows.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by revising the paragraph heading of paragraph (h)(5) and revising paragraphs (h)(5)(v) and (vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(5) Charleston, SC, Ocean Dredged Material Disposal Site.

* * * * *

(v) Period of Use: Continued use.

(vi) Restriction: Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged materials must be placed within the box defined by the following four corner coordinates (NAD83): 32.65663° N, 79.75716° W; 32.64257° N, 79.72733° W; 32.61733° N, 79.74381° W; and 32.63142° N, 79.77367° W. Additionally, all disposals shall be in accordance with all provisions of disposal placement as specified by the Site Management Plan, which is periodically updated.

* * * * *

[FR Doc. 02–11299 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7205–9]

Utah: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Utah has applied to EPA for Final authorization of the changes to its hazardous waste program under 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. We are publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Utah's changes to their hazardous waste program will take effect. If we receive 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 July 8, 2002 unless EPA receives adverse written comment by June 6, 2002. If EPA receives such comment, it will publish a timely withdrawal of this Immediate Final Rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139. Copies of the Utah program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region VIII, from 7:00 AM to 4:00 PM, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139 or Utah Department of Environmental Quality (UDEQ), from 8:00 AM to 5:00 PM, 288 North 1460 West, Salt Lake City, Utah 84114–4880, contact: Susan Toronto, phone number: (801) 538–6776.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139.

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 Utah's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah Final authorization to operate its hazardous waste program with the changes described in the authorization application. Utah 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 Utah, including issuing permits, until the State is granted authorization to do so.

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

This decision means that a facility in Utah 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. Utah has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits;
- And 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 Utah 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. We are providing an opportunity for the public to 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 Utah Previously Been Authorized for?

Utah initially received Final Authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683) to implement its base hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770), effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; and October 16, 2000 (65 FR 61109), effective January 16, 2001.

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

On April 4, 2000, Utah submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Utah Final authorization for the following program changes (the Federal Citation followed by the analog from the Utah Administrative Code (R315), revised September 20, 2001): Clarification of Standards for Hazardous Waste LDR Treatment Variances [62 FR 64504, 12/05/97] (Checklist 162)/R315–13–1; Organic Air Emission Standards for Tanks, Surface Impoundments, & Containers [62 FR 64636, 12/08/97] (Checklist 163)/R315–3–2.5(b)(5); R315–7–9.6(b); R315–7–12.4; R315–7–26; R315–7–27; R315–7–30; R315–50–17; R315–8–2.6(b)(4); R315–8–5.3; R315–817, R315–8–18; R315–8–22; Kraft Mill Steam Stripper Condensate Exclusion [63 FR 18504, 04/15/98] (Checklist 164)/R315–2–4(a)(15); Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes & Mineral Processing Wastes [63 FR 28556, 05/26/98] (Checklist 167A)/R315–13–1; Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards & Exclusions [63 FR 28556, 05/26/98] (Checklist 167B)/R315–13–1; Land Disposal Restrictions Phase IV—Corrections [63 FR 28556, 05/26/98] (Checklist 167C)/R315–13–1; R315–13–1; Mineral Processing Secondary Materials Exclusion [63 FR 28556, 05/26/98] (Checklist 167D)/R315–2–2(c)(1)(i); R315–2–2(c)(3); R315–2–2(e)(1)(iii); R315–2–4(a)(16); Bevill Exclusion Revisions & Clarifications [63 FR 28556, 05/26/98] (Checklist 167E)/R315–2–3(a)(2); R315–2–4(b)(7); Exclusion of Recycled Wood Preserving Wastewaters [63 FR 28556, 05/26/98] (Checklist 167F)/R315–2–4(a)(9); Hazardous Waste Combustors Revised Standards [63 FR 33782, 06/19/98] (Checklist 168)/R315–2–4(a)(17); R315–2–26; R315–3–4.3; Petroleum Refining Process Wastes [63 FR 42110, 08/06/98] (Checklist 169)/R315–2–3(a)(2)(iv)(C); R315–2–3(c)(2)(ii)(B); 2–3(c)(2)(ii)(E); R315–2–4(a)(12); R315–2–4(a)(18); R315–2–4(a)(19); R315–2–6; R315–210; R315–13–1; R315–14–7; R315–50–9; Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment [63 FR 46332, 08/31/98] (Checklist 170)/R315–13–1; Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags [63 FR 48124, 09/09/98] (Checklist 172)/R315–13–1; Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule [63 FR 51254, 09/24/98] (Checklist 173)/R315–13–1; Post-Closure Permit Requirement & Closure

Process [63 FR 56710, 10/22/98] (Checklist 174)/R315–3–1.1; R315–3–2.5(a); R315–3–2.19; R315–7–13.1; R315–7–14; R315–7–15; R315–8–6.1; R315–8–7; R315–8–8; Universal Waste Rule—Technical Amendments [63 FR 71225] (Checklist 176)/R315–14–6; R315–16–1.9(j); Organic Air Emission Standards: Clarification and Technical Amendments [64 FR 03382] (Checklist 177)/R315–5–3.34; R315–7–30; R315–8–17; R315–8–22; Petroleum Refining Process Wastes-Leachate Exemption [64 FR 06806] (Checklist 178)/R315–2–4(b)(15).

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

In the Federal Register on October 16, 2000 [65 FR 61109, effective January 16, 2001], we listed several places where we consider the State requirements to be more stringent than the Federal requirements. R315–5–10 was inadvertently left off the list of citations where the State requires notification also be given to the Utah Division of Solid and Hazardous Waste, as well as, the Federal entities. These requirements are part of Utah's authorized program and are Federally enforceable.

I. Who Handles Permits After the Authorization Takes Effect?

Utah 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 until Utah has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in the Item G after the effective date of this authorization. EPA has previously suspended issuance of permits for other provisions on the effective date of Utah's Final Authorization for the RCRA base program and each of the revisions listed at Item F. EPA will continue to implement and issue permits for HSWA requirements for which Utah is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Utah?

This program revision does not extend to ''Indian Country'' as defined in 18 U.S.C. Section 1151. Indian Country includes lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:

1. Goshute Indian Reservation
2. Navajo Indian Reservation
3. Northwestern Band of Shoshoni Nation of Utah (Washakie) Indian Reservation
4. Paiute Indian Tribe of Utah Indian Reservation
5. Skull Valley Band of Goshute Indians of Utah Indian Reservation
6. Uintah and Ouray Indian Reservation (see below)
7. Ute Mountain Indian Reservation

With respect to the Uintah and Ouray Indian Reservation, Federal courts have determined that certain lands within the exterior boundaries of the Reservation do not constitute Indian Country. This State program revision approval will extend to those lands which the courts have determined are not Indian Country.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the State of Utah choose to seek program authorization within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

K. What Is Codification and Is EPA Codifying Utah'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. We reserve the amendment of 40 CFR part 272, subpart TT for the codification of Utah's program until a later date.

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 (Public Law 104–4). For the same reason, this action 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 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.

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 July 8, 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: April 26, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 02–11291 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 18

RIN 2700–AC33

NASA FAR Supplement—Conformance With FACs 01–01, 01–02, and 01-06; and Miscellaneous Administrative and Technical Revisions

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule to conform the NASA FAR Supplement with the FAR as a result of changes made by FAC's 01–01, 01–02, and 01–06; and make editorial and miscellaneous changes dealing with NASA internal and administrative matters.

EFFECTIVE DATE: May 22, 2002.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546, (202) 358–1645, e-mail: *celeste.dalton@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Item IV of FAC 01–01 amended various FAR subparts and clauses to implement recent statutory and regulatory changes relating to veterans' employment opportunities and reporting. Item II of FAC 01–02 amended various FAR subparts to implement Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management. Item III of FAC 01–02 amended various FAR subparts and clauses to reflect changes to the Office of Management and Budget (OMB) prompt payment requirements and clarify existing FAR prompt payment coverage. Item V of FAC 0106 amended various FAR subpart to rewrite procurement integrity coverage in plan language. This final rule makes changes to NFS parts 1803, 1811, 1822, 1823, and 1832 necessary to conform to the changes in FAC's 01–01,01–02, and 01–06. Additional changes dealing with NASA internal and administrative matters included in this rule clarify the approval authority for letter contracts and that ''instrument'' means the award document when referring to contracts, grants, cooperative agreement, or other agreement. Changes are made to subparts 1806.3 and 1819.70 to delete text duplicative of the FAR. Changes are made to clauses in part 1852 to identify optional (though preferable) forms for submission of information about technology innovations under NASA contracts and to identify the web site where these forms are available. Editorial changes are made throughout the NFS to reflect title changes. Lastly, technical amendments are made to subpart 1804.74 and part 1852 to update url listings. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA 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 it does not impose any new requirements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Chapter 18, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852 are amended as follows:

1. The authority citation for 48 CFR Chapter 18, Parts 1801 through 1809, 1811, 1812, 1815 through 1817, 1819, 1822, 1823, 1825, 1828 through 1830, 1832, 1835 through 1837, 1842, 1845, 1848 through 1850, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. 48 CFR Chapter 18 is amended by—

a. Removing ''Associate Administrator for Procurement'' and adding ''Assistant Administrator for Procurement'' in its place each time it appears;

b. Removing ''Associate Administrator for Management Systems and Facilities'' and adding ''Assistant Administrator for Management Systems'' in its place each time it appears;

c. Removing ''Associate Administrator for Equal Opportunity Programs'' and adding ''Assistant Administrator for Equal Opportunity Programs'' in its place each time it appears;

d. Removing ''Associate Administrator for Small and Disadvantage Business Utilization'' and adding ''Assistant Administrator for Small and Disadvantage Business Utilization'' in its place each time it appears;

e. Removing ''Associate Administrator for Headquarters Operations'' and adding ''Director for Headquarters Operations'' in its place each time it appears; and

f. Removing ''Deputy Associate Administrator for Procurement'' and adding ''Deputy Assistant Administrator for Procurement'' in its place each time it appears.

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Redesignate section 1803.104–3 as 1803.104–1.

4. Redesignate section 1803.104–5 as 1803.104–4 and amend the newly designated section 1803.104–4 by—

a. Revising the title to read as follows:

1803.104–4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

b. In paragraph (a)(ix), removing ''1803.104–5(a)(i)'' and adding ''1803.104–4(a)(i)'' in its place;

c. In paragraph (c)(i), removing—

(1) ''FAR 3.104–3'' and adding ''FAR 2.101'' in its place; and

(2) ''FAR 3.104–5(c)'' and adding ''FAR 3.104–4(c)'' in its place.

d. In paragraph (c)(ii), add ''2.101 and'' immediately before ''3.104'' in the first sentence.

5. Redesignate section 1803.104–10 as 1803.104–7.

PART 1804—ADMINISTRATIVE MATTERS

1804.7403 [Amended]

6. Amend section 1804.7403 in paragraph (a)(1) by removing ''*http://www.ccr2000. com*'' and adding'' *http://www.ccr. gov*'' in its place.

PART 1806—COMPETITION REQUIREMENTS

1806.303–170 [Amended]

7. Amend section 1806.303–170 by removing the last sentence.

PART 1811—DESCRIBING AGENCY NEEDS

8. Revise section 1811.101 to read as follows:

1811.101 Order of precedence for requirements documents.

(a) Safeguards to ensure safety, security, and environmental protection must be included, as applicable, in requirements documents.

(b)(2) Requirements for the use of environmentally preferable products will be established in accordance with NPG 8830.1, ''Affirmative Procurement Plan for Environmentally Preferable Products.'' Requirements for the use of energy and water efficient products and the use of renewable energy technology will be established in accordance with NPG 8570.1, ''Energy Conservation Technologies and Practices.''

PART 1816—TYPES OF CONTRACTS

9. In section 1816.104–70, revise paragraph (b) to read as follows:

1816.104–70 Contract type for performance-based contracting (PBC).

* * * * *

(b) A PBC is a completion form of contract (something is accomplished). Term/level-of-effort, time-and-materials and labor hour contracts are not PBC.

10. Revise section 1816.603–370 to read as follows:

1816.603–370 Approvals.

(a)(1) The approval authority to issue a letter contract is—

(i) The Assistant Administrator for Procurement when the estimated value of the definitized contract is equal to or greater than the Master Buy Plan (MBP) submission threshold of 1807.7101;

(ii) The procurement officer when the estimated value of the definitized contract is below the MBP submission threshold; and

(iii) The Assistant Administrator for Procurement for any modification of an undefinitized letter contract approved by the procurement officer that increases the estimated value of the definitized contract to an amount equal to or above the MBP submission threshold. This approval must be obtained prior to issuing the modification.

(2) The procurement officer must sign all requests for approval by the Assistant Administrator for Procurement and submit them to Code HS.

(b) All requests for authority to issue a letter contract must include the following:

(1) Contractor name and address.

(2) Place of performance.

(3) Contract number, including modification number, if applicable.

(4) Brief description of the work or services to be performed.

(5) Performance period or delivery schedule for both the letter contract and definitized contract.

(6) Estimated value of the work authorized by the letter contract.

(7) Estimated value of the definitized contract.

(8) Contract type of the definitized contract.

(9) A statement that the definitized contract will contain all required clauses or identification of approved specific clause deviations.

(10) Complete justification of the necessity for the letter contract, including the advantages to the Government and a description of the efforts to avoid its issuance or to minimize its scope.

(11) The definitization schedule described in FAR 16.603–2(c) expected to be negotiated with the contractor.

PART 1819—SMALL BUSINESS PROGRAMS

1819.7001 [Removed]

11. Remove section 1819.7001.

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

12. Revise Subpart 1822.13 to read as follows:

Subpart 1822.13—Special Disabled Veterans, Veterans of the Vietnam ERA, and Other Eligible Veterans

1822.1305 Waivers.

(c) Requests for waivers shall be submitted to the Assistant Administrator for Equal Opportunity Programs (Code E).

1822.1308 Complaint procedures.

Contracting officers shall submit all complaints to the Assistant Administrator for Equal Opportunity Programs (Code E).

PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG–FREE WORKPLACE

13. Revise the title of Part 1823 to read as set forth above.

14. Add Subpart 1823.2 to read as follows:

Subpart 1823.2—Energy and Water Efficiency and Renewable Energy

1823.203 Energy-efficient products.

Responsibility, policy and procedures for NASA's implementation of FAR 23.203, including cost-effectiveness, are described in NPG 8570.1, ''Energy Efficiency and Water Conservation Technologies and Practices.''

15. Add Subpart 1823.4 to read as follows:

Subpart 1823.4—Use of Recovered Materials

1823.404 Agency affirmative procurement programs.

NASA's affirmative procurement program is described in the Affirmative Procurement Plan for Environmentally Preferable Products (NPG 8830.1)

16. Add Subpart 1823.7 to read as follows:

Subpart 1823.7—Contracting for Environmentally Preferable Products and Services

1823.703 Policy.

Responsibility, policy and procedures for NASA's implementation of FAR 23.703 is described in NPG 8570.1, ''Energy Efficiency and Water Conservation Technologies and Practices''.

PART 1832—CONTRACT FINANCING

17. Add section 1832.007 to read as follows:

1832.007 Contract financing payments.

(a)(1) Except as authorized in 1832.908, it is NASA's policy to make contract financing payments on the 30th day after the designated billing office has received a proper request. However, the due date for making contract financing payments for a specific contract may be earlier than the 30th day, but not earlier than 7 days, after the designated billing office has received a proper request, provided that:

(i) The contractor provides consideration whose value is determined to be greater than the cost to the United States Treasury of interest on funds paid prior to the 30th day, calculated using the Current Value of Funds Rate published annually in the **Federal Register** (subject to quarterly revision);

(ii) The contracting officer approves the payment date change, with the concurrence of the installation Financial Management Officer; and

(iii) The contract file includes documentation regarding the value of the consideration and the analysis determining that value.

1832.906 [Removed]

18. Remove section 1832.906.

1832.908 [Amended]

19. Amend section 1832.908 by redesignating paragraph (c)(3) as (c)(2).

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.016–71 [Amended]

20. In section 1835.016–71, amend the last sentence of paragraph (c)((2)(B) by removing ''NASA instruments'' and adding ''NASA award instruments'' in its place.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.204–74 [Amended]

21. Section 1852.204–74 is amended as follows:

a. The clause date is revised to read ''May 2002''; and

b. In paragraph (d) remove ''*http://www.ccr2000.com*'' and add ''*http://www.ccr.gov*'' in its place.

22. Revise section 1852.227–11 to read as follows:

1852.227–11 Patent Rights—Retention by the Contractor (Short Form).

As prescribed at 1827.303–70(a), modify the clause at FAR 52.227–11 by adding the following subparagraph (5) to paragraph (c) of the basic clause; adding the following subparagraph (5) to paragraph (f); and using the following subparagraph (2) in lieu of subparagraph (g)(2) of the basic clause:

(c)(5) The Contractor may use whatever format is convenient to disclose subject inventions required in subparagraph (c)(1). NASA prefers that the contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (Including Software) to disclose subject inventions. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site http://invention.nasa.gov.

(End of addition)

(f)(5) The Contractor shall provide the Contracting Officer the following:

(i) A listing every 12 months (or such longer period as the Contracting Officer may specify) from the date of the contract, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the contract listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a coinventor.

(End of addition)

(g)(2) The Contractor shall include the clause in the NASA FAR Supplement at 1852.227–70, New Technology, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization.

(End of substitution)

23. Amend the clause at section 1852.227–70 by revising the date of the clause; redesignating paragraphs (e)(3) through (e)(5) as (e)(4) through (e)(6) respectively; and adding new paragraph (e)(3) to read as follows:

1852.227–70 New Technology.

* * * * *

New Technology

(May 2002)

(e) * * *

(3) The Contractor may use whatever format is convenient to disclose reportable items required in subparagraph (e)(2). NASA prefers that the Contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (Including Software) to disclose reportable items. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site http://invention.nasa.gov.

* * * * *

1852.235–72 [Amended]

24. Section 1852.235–72 is amended as follows:

a. The clause date is revised to read ''May 2002''; and

b. In the second sentence of paragraph (a)(4), add the word ''award'' immediately after the word ''appropriate''.

[FR Doc. 02–11168 Filed 5–6–02; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 660

[Docket No. 011231309–2090–03; I.D. 042502D]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Pacific Halibut Fisheries; Corrections

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

ACTION: Inseason trip limit adjustment; announcement of incidental halibut retention allowance; corrections to the 2002 specifications and management measures; request for comments.

SUMMARY: NMFS announces changes in the following trip limits for the Pacific Coast groundfish fisheries: limited entry trawl gear fisheries for the DTS complex (Dover sole, thornyheads, and sablefish), splitnose rockfish, minor slope rockfish, chilipepper rockfish, yelloweye rockfish sublimit in minor shelf rockfish, and lingcod; limited entry fixed gear

fisheries for splitnose rockfish, minor slope rockfish, minor nearshore rockfish, and sablefish; open access fisheries for minor slope rockfish, minor nearshore rockfish, and sablefish; yelloweye rockfish in pink shrimp fishery; and yellowtail rockfish in salmon troll fishery. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), are intended to help the fisheries achieve optimum yield (OY) while protecting overfished and depleted stocks. NMFS announces regulations for the retention of Pacific halibut landed incidentally in the limited entry primary longline sablefish fishery north of Pt. Chehalis, WA. Clarification is provided on the sublimit in the limited entry small footrope trawl fishery for yellowtail rockfish. This document also contains notification of a voluntary closed area for commercial fisheries off Washington, a correction to a CFR citation in the 2002 specifications and management measures that were published on March 7, 2002, and a correction to the trip limits in Table 4 for limited entry fixed gear minor rockfish south between 40°10′ N. and 34°27′ N. lat.

DATES: Changes to management measures are effective 0001 hours (local time) May 1, 2002, through the effective dates of the 2003 specifications and management measures for the Pacific Coast groundfish fishery, unless modified, superseded, or rescinded, which will be published in the **Federal Register**. Comments on this rule will be accepted through May 22, 2002.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213. This **Federal Register** document is available on the Government Printing Office's website at: http://www.access.gpo.gov/su__docs/aces/aces140.html.

FOR FURTHER INFORMATION CONTACT: Jamie Goen or Becky Renko (Northwest Region, NMFS) 206–526–6140.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1–December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1 - February 28, 2002 (67 FR 1540, January 11, 2002), and as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), then finalized effective March 1, 2002 (67 FR 10490, March 7, 2002). The emergency rule was subsequently amended at 67 FR 3820, January 28, 2002, and at 67 FR 7289, February 19, 2002. The final rule was subsequently amended at 67 FR 15338, April 1, 2002.

The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773–773k) (Halibut Act) and its implementing regulations at 50 CFR part 300, subpart E, regulate fishing for Pacific Halibut in U.S. Convention waters. The Halibut Act also authorizes the Pacific Council to develop regulations governing the Pacific halibut catch in waters off of Washington, Oregon, and California that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC). Accordingly, the Pacific Council has developed, and NMFS has approved, a catch sharing plan (CSP) to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-Indian harvesters, and among non-Indian commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California). The CSP, as implemented at 50 CFR part 300, provides for retention of halibut landed incidentally in the limited entry, longline primary sablefish fishery north of Pt. Chehalis, WA (46°53′18″ N. lat.) in years when the Area 2A TAC is above 900,000 lb (408.2 mt). Because the Area 2A TAC is above 900,000 lb (408.2 mt) in 2002, NMFS is establishing an allowance for incidental halibut retention in the primary sablefish fishery in 2002.

The following changes to current groundfish management measures were recommended by the Pacific Council, in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California, at its April 8–12, 2002, meeting in Portland, OR. Pacific Coast groundfish landings will be monitored throughout the year, and further adjustments to the trip limits will be made as necessary to stay within the OYs and allocations announced in the 2002 specifications and management measures for the groundfish fishery, published in the **Federal Register** at 67 FR 10490 (March 7, 2002), as amended at 67 FR 15338 (April 1, 2002).

Darkblotched rockfish, an overfished species found on the continental slope, is of particular concern for, and is harvested by, several sectors of the groundfish fishery discussed in this inseason action. To protect darkblotched rockfish, NMFS and the Pacific Council previously restricted trip limits for continental slope fisheries north of 40°10′ N. lat. The restricted limits north of 40°10′ N. lat. were intended to reduce harvest of species that co-occur with darkblotched rockfish in order to reduce the incidental harvest of darkblotched rockfish in areas where they tend to occur. However, recent data have shown that darkblotched rockfish may also occur in higher concentrations than previously believed south of 40°10′ N. lat., especially between 40°10′ N. lat. and 36° N. lat. (Monterey management area).

For the 2002 specifications and management measures, NMFS introduced a new bycatch model for estimating the rates at which certain overfished species, including darkblotched rockfish, co-occur as bycatch in fisheries targeting healthier stocks. For the purposes of this inseason action, ''bycatch'' is used to describe a species' co-occurrence with a target species, regardless of whether the first species is retained (landed, sold, or otherwise used) or discarded. A re-evaluation of the bycatch model has shown that darkblotched rockfish landings information from the waters between 40°10′ N. lat. and 36° N. lat. (Monterey management area) may not have been accurate in the original bycatch model, resulting in co-occurrence rates used in the bycatch model for darkblotched rockfish being lower than what may have actually occurred in target fisheries in the Monterey area. NMFS and the Pacific Council must manage the coastwide fisheries to minimize opportunities for incidental darkblotched rockfish catch so as to not exceed the darkblotched rockfish OY, which is set at a level that is intended to rebuild the stock.

For these reasons, the Pacific Council recommended reducing slope rockfish trip limits in this management area, starting May 1, 2002. In the coming months, the Pacific Council's Groundfish Management Team (GMT) will review fish ticket data to better evaluate landings in the Monterey area and to determine whether further adjustments are needed to the bycatch model and to trip limits to protect darkblotched rockfish. NMFS and the Pacific Council will recommend further changes at the June 2002 Council

meeting, based on the GMT's evaluation.

In addition, NMFS must account for an additional 2 mt of darkblotched rockfish, expected to be taken in research catches. Together, these situations have led NMFS and the Pacific Council to recommended further restrictions to protect darkblotched rockfish. After considerable deliberation on this issue, NMFS and the Pacific Council have recommended reductions in the DTS fisheries, minor slope rockfish fisheries, and splitnose rockfish fisheries in order to further restrict the bycatch of darkblotched rockfish.

Limited Entry Trawl Gear Limits for DTS North of 40°10′ N. lat.

During January-February of this year, landings of the DTS complex were 8 percent above projected levels. Due to concern about increased effort in the DTS fishery and its effects on darkblotched rockfish, an overfished species that co-occurs with the DTS complex, the Pacific Council recommended reducing trip limits for DTS north of 40°10′ N. lat. in order to reduce the incidental harvest of darkblotched rockfish. Although trip limits for the DTS fishery were scheduled to decrease in the winter to reduce darkblotched bycatch, further restrictions are necessary at this time to protect darkblotched rockfish. Reducing trip limits for the July-August period is expected to save roughly 6 mt of darkblotched rockfish, which should keep the darkblotched rockfish catch within the 2002 OY while allowing fisheries for co-occurring species to continue.

The lower 2002 whiting OY, implemented on April 15, 2002 (67 FR 18117), will most likely result in a shorter whiting season. This could cause effort to shift into the DTS fishery during the July-August period. Reducing trip limits in the northern DTS fishery during July-August will reduce the catch of darkblotched rockfish not accounted for in the bycatch model, and will also reduce the likelihood of effort shifting into the DTS fishery from the whiting fishery. In order to accommodate the desire by fishers and processors to maintain year-round fishing opportunities and to reduce the likelihood of a total continental slope fishery closure later in the year due to early attainment of the DTS OY and/or interception of darkblotched rockfish, the trip limits for the DTS fishery for July-August were cut roughly in half.

For the July-August period, the 2-month cumulative limits for the DTS trawl fishery occurring north of 40°10′ N. lat. will be reduced as follows: Dover sole will be reduced from 28,000 lb (12,700 kg) to 14,000 lb (6,350 kg), shortspine thornyhead will be reduced from 2,600 lb (1,179 kg) to 1,500 lb (680 kg), longspine thornyhead will be reduced from 3,000 lb (1,361 kg) to 1,500 lb (680 kg), and sablefish will be reduced from 6,000 lb (2,722 kg) to 3,000 lb (1,361 kg).

Limited Entry Trawl and Fixed Gear Limits for Splitnose Rockfish and Limited Entry Trawl and Fixed Gear and Open Access Limits for Minor Slope Rockfish Between 40°10′ N. lat. and 36° N. lat.

Splitnose rockfish and minor slope rockfish both co-occur with darkblotched rockfish, an overfished species, on the continental slope. In light of the new information for the darkblotched rockfish in the Monterey management area (between 40°10′ N. lat. and 36° N. lat.) previously discussed, the Pacific Council recommended trip limit reductions for splitnose rockfish and minor slope rockfish as a precautionary measure to reduce possible incidental catch of darkblotched rockfish until further information is available at the June Pacific Council meeting.

Trip limits for splitnose rockfish and minor slope rockfish remain unchanged south of 36° N. lat. (south of the Monterey management area) because incidental catch of darkblotched rockfish has remained low in this area. In order to avoid excessive effort concentration on splitnose and minor slope rockfish from vessels moving south to the Conception management area (south of 36° N. lat.) to access higher trip limits, this issue will also be revisited at the June Pacific Council meeting, when fish tickets become available, to identify reasonable thresholds for removals of splitnose and minor slope rockfish.

To apply the reductions equally across sectors, splitnose rockfish limits will be reduced for limited entry trawl and fixed gear between 40°10′ N. lat. and 36° N. lat. from 25,000 lb (11,340 kg) per 2 months to 5,000 lb (2,268 kg) per 2–month period from May-August. The open access limit for splitnose rockfish south of 40°10′ N. lat. remains 200 lb (91 kg) per month. Also for the May-August period, the limited entry trawl, limited entry fixed gear and open access limits for minor slope rockfish between 40o10' N. lat. and 36o N. lat. will each be reduced to 5,000 lb (2,268 kg) per 2–month period. Previously, minor slope rockfish limits for these sectors in the Monterey area were 50,000 lb (22,680 kg) per 2–months for limited entry trawl, 25,000 lb (11,340 kg) per 2-months for limited entry fixed gear, and 10,000 lb (4,536 kg) per 2–months for open access.

Limited Entry Small Footrope Trawl Gear Limits for Chilipepper Rockfish South of 40°10′ N. lat.

The best available information at the April Pacific Council meeting showed higher than projected landings in January-February for bocaccio, an overfished species that co-occurs with chilipepper rockfish. Estimated limited entry landings of bocaccio for January-February (the majority of which are from trawl gear) were 5 mt, above the projected catch of 1.3 mt. Although the January-February catch of bocaccio is higher than projected, the projected annual catch for 2002 (13.8 mt) was well below the 25 mt total catch harvest guideline for the limited entry fleet. Because fish ticket data are not yet available for the January-February period, it is not known what other species are being landed with bocaccio. However, previous examinations of rockfish compositions have shown that chilipepper rockfish is often landed along with bocaccio. Fish ticket data will be available and examined before the June Pacific Council meeting in San Francisco. If landings of bocaccio continue above the projected pace, further adjustments to harvest limits for bocaccio and co-occurring species will be recommended at that time.

Limited entry trawl cumulative limits for bocaccio are scheduled to increase from 600 lb (272 kg) per 2-month period to 1,000 lb (454 kg) per 2 months from May-October. The Pacific Council considered reducing this scheduled increase, but felt it was necessary to allow the scheduled increase to accommodate interception of bocaccio in other trawl fisheries.

Bocaccio is not a targeted species in limited entry trawl fisheries; thus, adjustments to target species that co-occur with bocaccio are the most effective way to minimize increased catch of bocaccio and bocaccio landings. NMFS expects that minimizing bocaccio interception in the coming years will be a continuing challenge as individuals from the robust 1999 year-class grow to a size that makes them available to the commercial fisheries. Thus, for the May-December period, the limited entry small footrope trawl limit for chilipepper rockfish south of 40°10′ N. lat. will be reduced from 7,500 lb (3,402 kg) per 2–month period to 4,000 lb (1,814 kg) per 2–month period.

Limited Entry Fixed Gear and Open Access Limits for Minor Nearshore Rockfish North of 40°10′ N. lat.

At its November 2001 meeting, the Pacific Council adopted a limited entry fixed gear trip limit for minor nearshore rockfish north of 40°10′ N. lat. of 5,000 lb (2,268 kg) per month, no more than 2,000 lb (907 kg) of which could be species other than black or blue rockfish. This was an oversight, as the nearshore rockfish limits in this fishery have commonly been managed as 2-month limits, not as monthly limits. The limited entry fixed gear limit for minor nearshore rockfish north of 40o10' should have been 5,000 lb (2,268 kg) per 2–months, similar to the open access minor nearshore rockfish limit for that same area of 4,000 lb (1,814 kg) per 2 months.

Landings in the nearshore rockfish fisheries north of 40°10′ N. lat. through March are well below 2001 levels (11 mt for 2002 as opposed to 45 mt in 2001). Even though the 2002 harvest guideline for this fishery is lower than in 2001 (324 mt versus 412 mt), the entire 2001 landings were below the 2002 harvest guideline. As a result, the Pacific Council recommended increasing the open access trip limit and bringing the limited entry fixed gear trip limit in line with the open access trip limit beginning in May. These changes are expected to allow attainment of the nearshore harvest guidelines without allowing the fisheries to exceed these guidelines. The recommended limit is less than the limit for May-September last year, which was 7,000 lb (3,175 kg) per 2 months. If 2002 participation in this fishery is similar to 2001, this limit increase is not expected to result in early attainment of the minor nearshore rockfish OY.

The limited entry fixed gear limits for minor nearshore rockfish north of 40°10′ N. lat. will be decreased from 5,000 lb (2,268 kg) per month, no more than 2,000 lb (907 kg) of which may be species other than black and blue rockfish for limited entry fixed gear. For the open access fishery for minor nearshore rockfish north of 40°10′ N. lat. the limits will be increased from 4,000 lb (1,814 kg) per 2 months, no more than 1,600 lb (726 kg) of which may be species other than black and blue rockfish. For the May-December period, both the limited entry and the open access limits for minor nearshore rockfish north of 40°10′ N. lat. will be changed to 6,000 lb (2,722 kg) per 2 months, no more than 3,000 lb (1,361 kg) of which may be species other than black or blue rockfish.

Limited Entry Small Footrope/midwater Trawl Gear Sublimits for Yelloweye Rockfish in Minor Shelf Rockfish, Open Access Exempted Trawl Gear- No Retention of Yelloweye in the Pink Shrimp Fishery, Notification of Voluntary Closed Area

Further restrictions on yelloweye rockfish are being implemented as a precautionary measure. The limited entry trawl fishery trip limit for minor shelf rockfish is scheduled to increase to 1,000 lb (454 kg) per month from May-October. Although limited entry trawl landings of yelloweye rockfish have been low since the implementation of the small footrope and/or midwater trawl gear requirement for minor shelf rockfish, a sublimit on yelloweye rockfish is necessary to remove any incentive to target yelloweye rockfish, as yelloweye is an overfished species, while still allowing for landings of incidental catch. Therefore, for the May-October period, a yelloweye sublimit will be added as follows: the limited entry small footrope/midwater trawl fishery for minor shelf rockfish will be 1,000 lb (454 kg) per month, no more than 300 lb (136 kg) of which may be yelloweye rockfish.

This document adds a prohibition for the open access exempted trawl fishery for pink shrimp, on retention of yelloweye rockfish from May-December.

Further efforts to protect yelloweye rockfish in an area of high interception have been recommended by Washington Department of Fish and Wildlife. The majority of the fishing industry supports this voluntary closure and leaders of industry associations are working with their members to ensure voluntary avoidance of the area. For all commercial fisheries off Washington, including groundfish fisheries, a voluntary closure of a four-mile by seven-mile area adjacent to the halibut hotspot area is in place within a rectangle defined by the following coordinates: 48°04′ N. lat., 125°11′ W. long.; 48°04′ N. lat., 124°59′ W. long.; 48°00′ N. lat., 125°11′ W. long.; and 48°00′ N. lat., 124°59′ W. long.

Limited Entry Small Footrope/Midwater Trawl Gear Limits for Lingcod

The January-February lingcod catch (estimated landings plus assumed discard) of 6 mt is slightly ahead of the projected amount of 4.8 mt. Although the January-February lingcod catch is slightly higher than projected, the projected annual catch is still on track with the 2002 harvest guideline of 163 mt. In 2001, limited entry landings were 80 mt out of a 203 mt harvest guideline. Bycatch projections for the rest of the year also remain within the 2002 harvest guideline. In order to allow vessels to land unavoidable bycatch by the trawl fleet during summer continental shelf fisheries, the limited entry small footrope/midwater trawl gear limit for lingcod will be increased. Lingcod are also less likely to survive being caught and discarded during the summer months because mortality increases with higher water and air temperatures. This trip limit increase is not intended to fully take the landed catch harvest guideline for this species, but to reduce discard mortality in a manner that will not encourage targeting or result in excessive catch. Furthermore, this change in retention allowance should not affect the level of projected bycatch that will occur in available target fisheries, only the amount of that bycatch that may be retained.

For the May-October period, limited entry small footrope/midwater trawl gear limits for lingcod will be increased from 800 lbs (363 kg) per 2 months to 1,000 lb (454 kg) per 2 months. This increase is not expected to increase incidental interception of lingcod, but is expected to allow increased retention of dead lingcod.

Limited Entry Fixed Gear and Open Access Limits for Sablefish South of 36° N. lat.

Because of the darkblotched rockfish closure in the Conception management area (south of 34°27′ N. lat.) during January-February, there was more participation than projected in the daily-trip-limit (DTL) fishery for sablefish south of 36° N. lat. This concentration of effort produced landings of 47 mt (22.3 percent of the harvest guideline), an amount of landings that had not been achieved in 2001 until May. While participation in the sablefish DTL fishery was higher than anticipated in January-February, the pace of the fishery slowed in March. However, another rockfish closure similar to the previous one in January-February is scheduled for November-December. If this rockfish closure shifts participation into the sablefish DTL fishery as it did in January-February, the sablefish DTL fishery may have to be closed due to early attainment of the OY. Because fishery participants wish to have an opportunity to land sablefish in the winter when rockfish fisheries will be closed in this area, the Pacific Council recommended reducing DTL sablefish limits in the Conception area.

For the May-December period, the limited entry fixed gear and open access limits for sablefish south of 36° N. lat. will be reduced from 350 lb per day

(159 kg per day), or 1 landing per week of up to 1,050 lbs (476 kg) to 300 lb per day (136 kg per day), or 1 landing per week of up to 900 lbs (408 kg).

Open Access Limits for Yellowtail in the Salmon Troll Fishery North of 40°10′ N. lat.

In 2001, the Pacific Council's GMT analyzed the incidental catch of yellowtail and canary rockfish in the salmon troll fishery. Management measures aimed at protecting canary rockfish, an overfished species that is often caught in association with yellowtail rockfish, have reduced catch opportunity for yellowtail rockfish which is considered to be a healthy stock. However, the 2001 analysis indicated that the amount of canary rockfish taken with salmon troll gear was not highly correlated to the amount of yellowtail rockfish taken with salmon troll gear. Following these findings in 2001, the Pacific Council adopted, and NMFS implemented, the GMT's recommendation for a yellowtail incidental catch limit specific to the salmon troll fishery. The intent of this small trip limit was to help reduce discard in the salmon troll fishery, without providing an incentive to target yellowtail rockfish or to exacerbate the incidental catch of canary rockfish. The Pacific Council has recommended that NMFS reinstate this same incidental yellowtail retention trip limit for the remainder of 2002.

For the May-December period, the general open access limit for yellowtail rockfish north of 40°10′ N. lat. continues to be 200 lb per month for combined minor shelf, widow and yellowtail rockfish. Participants in the salmon troll fishery in this area have a specific yellowtail rockfish limit of 1 lb (0.45 kg) of yellowtail rockfish per 2 lb (0.91 kg) of salmon, up to 300 lb (136 kg) per month.

Retention of Incidental Halibut Catch in the Primary Sablefish Fishery

The Pacific halibut CSP and implementing regulations at 50 CFR 300.63(a)(3) provide for retention of halibut landed incidentally in the limited entry, longline primary sablefish fishery north of Pt. Chehalis, WA (46°53′18″ N. lat.) in years when the Area 2A TAC is above 900,000 lb (408.2 mt). The 2002 Area 2A TAC is 1,310,000 lb (594.2 mt).

According to IPHC and Federal regulations, Pacific halibut may not be taken by gear other than hook-and-line gear. Only vessels registered for use with sablefish-endorsed limited entry permits may participate in the primary fixed gear sablefish fishery specified for halibut retention in the CSP. Vessels must also carry IPHC commercial halibut licenses in order to retain and land halibut. Incidental halibut retention in the primary sablefish fishery is only available to vessels operating north of Pt. Chehalis, WA (46°53′18″ N. lat.).

Similar to 2001, retention of halibut caught incidentally to the primary sablefish fishery may be retained by appropriately licensed longline vessels. Beginning May 1, 2002, and continuing until the halibut quota (88,389 lbs or 40.1 mt) is taken: longliners participating in the primary sablefish fishery north of Pt. Chehalis, Washington with IPHC licenses may retain incidental halibut landings up to 150 lbs (68 kg) (dressed weight) of halibut for every 1,000 lbs (454 kg) (dressed weight) of sablefish landed and up to two additional halibut in excess of the 150 lb (68 kg) per 1,000 lb (454 kg) ratio per landing. Halibut may not be on board a vessel that also has gear other than longline gear on board (e.g., pot or trawl gear).

Clarification on Limited Entry Small Footrope Trawl for Yellowtail Rockfish North of 40°10′ N. lat.

The current limited entry small footrope trawl limit for yellowtail rockfish north of 40°10′ N. lat. reads, ''In landings without flatfish, 1,000 lb per month. As flatfish bycatch, per trip limit is the sum of 33 percent (by weight) of all flatfish except arrowtooth flounder, plus 10 percent (by weight) of arrowtooth flounder. Combined with and without flatfish, not to exceed 30,000 lb per 2 months.'' This means that any yellowtail rockfish landed in the same landing as flatfish is subject to the flatfish ratio. Yellowtail landed with flatfish in excess of that ratio is subject to applicable enforcement procedures. One thousand lbs (454 kg) of yellowtail may be landed per month in landings that do not include flatfish. In total, yellowtail landings with and without flatfish may not exceed 30,000 lb (13,608 kg) per 2 months.

Corrections

The 2002 fishery specifications and management measures for the Pacific Coast groundfish FMP were published in the **Federal Register** on March 7, 2002 (67 FR 10490). The specifications and management measures contained an error that referred to regulations at 50 CFR part 663, rather than the correct reference to regulations at 50 CFR part 660. This is a minor editorial correction.

NMFS Actions

For the reasons stated here, NMFS concurs with the Pacific Council's recommendations and hereby announces the following changes to the 2002 specifications and management measures (67 FR 10490 March 7, 2002, as amended at 67 FR 15338 April 1, 2002) to read as follows:

1. On page 10516, in section IV, under B. Limited Entry Fishery, at the end of paragraph (1), Tables 3 and 4 are revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) * * *

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Table 3. Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months					
3	South						
4	40°10' - 36° N. lat.	50,000 lb/ 2 months		5,000 lb/ 2 months		50,000 lb/ 2 months	
5	South of 36° N. lat.	50,000 lb/ 2 months					
6	**Splitnose - South**						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		25,000 lb/ 2 months	
8	South of 36° N. lat.	25,000 lb/ 2 months					
9	**Pacific ocean perch - North[6/]**	2,000 lb/ month		4,000 lb/ month			2,000 lb/ month
10	**Chilipepper - South[6/]**						
11	mid-water trawl	25,000 lb/ 2 months					
12	small footrope trawl	7,500 lb/ 2 months		4,000 lb/ 2 months			
13	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year					
14	**DTS complex - North**						
15	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	3,000 lb/ 2 months	3,500 lb/ 2 months	2,500 lb/ 2 months
16	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	1,500 lb/ 2 months	10,000 lb/ 2 months	2,000 lb/ 2 months
17	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	1,500 lb/ 2 months	2,600 lb/ 2 months	1,500 lb/ 2 months
18	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months		20,000 lb/ 2 months	14,000 lb/ 2 months
19	**DTS complex - South**						
20	Sablefish	4,500 lb/ 2 months					
21	Longspine thornyhead	10,000 lb/ 2 months					
22	Shortspine thornyhead	2,600 lb/ 2 months					
23	Dover sole	22,000 lb/ 2 months					
24	**Flatfish - North**						
25	All other flatfish [3/]	Small footrope required: 15,000 lb/ month	35,000 lb/ month	30,000 lb/ month, no more than 10,000 of which may be petrale sole	40,000 lb/ month, no more than 15,000 of which may be petrale sole	50,000 lb/ month, no more than 20,000 of which may be petrale sole	Small footrope required: 50,000 lb/ month
26	Petrale sole	Not limited					Not limited
27	Rex sole	Not limited					Not limited
28	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
29	**Flatfish - South**						
30	All other flatfish [3/]	Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs		Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole			Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs
31	Petrale sole	Not limited					Not limited
32	Rex sole	Not limited					Not limited
33	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
34	**All other flatfish [3/] - North and South**	Large footrope: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits at any time during the year					
35	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip

<< TABLE 3 CONTINUED ON NEXT PAGE >>

Table 3. (CONTINUED) Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
36	**USE OF SMALL FOOTROPE BOTTOM TRAWL[5/] OR MIDWATER TRAWL REQUIRED FOR LANDING ALL OF THE FOLLOWING SPECIES:**						
37	**Minor shelf rockfish**						
38	North	300 lb/ month		1,000 lb/ month, no more than 300 lb of which may be yelloweye rockfish			300 lb/ month
39	South	500 lb/ month					500 lb/ month
40	**Canary rockfish**	200 lb/ 2 months		600 lb/ 2 months			200 lb/ 2 months
41	**Widow rockfish**						
42	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month			CLOSED[7/]
43	small footrope trawl	1,000 lb/ month					
44	**Yellowtail - North[6/]**						
45	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month			CLOSED[7/]
46	small footrope trawl	In landings without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder. Combined with and without flatfish, not to exceed 30,000 lb/ 2 months.					
47	**Bocaccio - South[6/]**	600 lb/ 2 months		1,000 lb/ 2 months			600 lb/ 2 months
48	**Cowcod**	CLOSED[7/]					
49	**Minor nearshore rockfish**						
50	North	300 lb/ month					
51	South	300 lb/ month					
52	**Lingcod[8/]**	800 lb/ 2 months		1,000 lb/ 2 months			800 lb/ 2 months

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained above. See IV.A.(14).

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See above.

6/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. Trip Limits[1/] for Limited Entry Fixed Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South						
4	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		25,000 lb/ 2 months	
5	South of 36° N. lat.	25,000 lb/ 2 months					
6	**Splitnose - South**						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		25,000 lb/ 2 months	
8	South of 36° N. lat.	25,000 lb/ 2 months					
9	**Pacific ocean perch - North[5/]**	2,000 lb/ month	4,000 lb/ month				2,000 lb/ month
10	**Sablefish**						
11	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
12	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
13	**Longspine thornyhead**	9,000 lb/ 2 months					
14	**Shortspine thornyhead**	2,000 lb/ 2 months					
15	**Dover sole**	5,000 lb/ month (all flatfish)					
16	**Arrowtooth flounder**						
17	**Petrale sole**						
18	**Rex sole**						
19	**All other flatfish[2/]**						
20	**Whiting[3/]**	20,000 lb/ trip					
21	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[5/]**						
22	North	200 lb/ month					
23	South						
24	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[4/]	200 lb/ month	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]
25	South of 34°27' N. lat.	CLOSED[4/]	1,000 lb/ month				CLOSED[4/]
26	**Canary rockfish**	CLOSED[4/]					
27	**Yelloweye rockfish**	CLOSED[4/]					
28	**Cowcod**	CLOSED[4/]					
29	**Bocaccio - South[5/]**						
30	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		200 lb/ month	CLOSED[4/]	
31	South of 34°27' N. lat.	CLOSED[4/]	200 lb/ month				CLOSED[4/]
32	**Chilipepper - South[5/]**						
33	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[4/]		500 lb/ month	CLOSED[4/]	
34	South of 34°27' N. lat.	CLOSED[4/]	2,500 lb/ month				CLOSED[4/]
35	**Minor nearshore rockfish**						
36	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish[6/]		6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish[6/]			
37	South						
38	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED[4/]	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	1,600 lb/ 2 months	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	CLOSED[4/]
39	South of 34°27' N. lat.	CLOSED[4/]	2,000 lb/ 2 months				CLOSED[4/]
40	**Lingcod[7/]**						
41	North	CLOSED[4/]		400 lb/ month			CLOSED[4/]
42	South						
43	40°10' - 34°27' N. lat.	CLOSED[4/]		Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	400 lb/ month	Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]
44	South of 34°27' N. lat.	CLOSED[4/]		400 lb/ month			CLOSED[4/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies.

4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

5/ Yellowtail rockfish and widow rockfish coastwide and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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* * * * *

2. On page 10519, first column, paragraph (b), line 9, correct the citation to read, ''(See 50 CFR 660.323(a)(2)(i))''.

3. On page 10519, at the beginning of column 2, add paragraph B(2)(b)(i)(A) to read as follows:

(2) * * *

(b) * * *

(i) * * *

(A) *Incidental halibut retention north of Pt. Chehalis, WA (46°53'18″ N. lat).* Vessels authorized to participate in the primary sablefish fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53′18″ N. lat.) may land up to the following cumulative limits: 150 lb (68 kg) dressed weight of halibut per 1,000 lb (454 kg) dressed weight of sablefish, plus up to two additional halibut per fishing trip. ''Dressed'' halibut in this area means halibut landed eviscerated with their heads on. Halibut taken in the primary sablefish fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be landed south of Pt. Chehalis.

4. On page 10519, under *C. Trip Limits in the Open Access Fishery*, after paragraph (1), Table 5 is revised to read as follows:

C. Trip Limits in the Open Access Fishery

(1) * * *

BILLING CODE 3610–22–S

Table 5. Trip Limits[1/] for Open Access Gears
Other Limits and Requirements Apply -- Read Sections IV. A. and C. NMFS Actions before using this table
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	Per trip, no more than 25% of weight of the sablefish landed					
3	South						
4	40°10' - 36° N. lat.	10,000 lb/ 2 months		5,000 lb/ 2 months		10,000 lb/ 2 months	
5	South of 36° N. lat.	10,000 lb/ 2 months					
6	**Splitnose - South**	200 lb/ month					
7	**Pacific ocean perch - North[4/]**	100 lb/ month					
8	**Sablefish**						
9	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
10	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
11	**Thornyheads**						
12	North of 34° 27' N. lat.	CLOSED[3/]					
13	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
14	**Dover sole**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs					
15	**Arrowtooth flounder**						
16	**Petrale sole**						
17	**Rex sole**						
18	**All other flatfish[2/]**						
19	**Whiting**	300 lb/ month					
20	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[4/]**						
21	North	200 lb/ month					
22	South						
23	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	200 lb/ month	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
24	South of 34°27' N. lat.	CLOSED[3/]	500 lb/ month				CLOSED[3/]
25	**Canary rockfish**	CLOSED[3/]					
26	**Yelloweye rockfish**	CLOSED[3/]					
27	**Cowcod**	CLOSED[3/]					
28	**Bocaccio - South[4/]**						
29	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]		200 lb/ month	CLOSED[3/]	
30	South of 34°27' N. lat.	CLOSED[3/]	200 lb/ month				CLOSED[3/]
31	**Chilipepper - South[4/]**						
32	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[3/]		500 lb/ month	CLOSED[3/]	
33	South of 34°27' N. lat.	CLOSED[3/]	2,500 lb/ month				CLOSED[3/]
34	**Minor nearshore rockfish**						
35	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]		6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish[5/]			
36	South						
37	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED[3/]	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	1,200 lb/ 2 months	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	CLOSED[3/]
38	South of 34°27' N. lat.	CLOSED[3/]	1,200 lb/ 2 months				CLOSED[3/]
39	**Lingcod[6/]**						
40	North	CLOSED[3/]		300 lb/ month			CLOSED[3/]
41	South						
42	40°10' - 34°27' N. lat.	CLOSED[3/]		Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	300 lb/ month	Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
43	South of 34°27' N. lat.	CLOSED[3/]		300 lb/ month			CLOSED[3/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40o10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

4/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. Pop in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3510–22–C

5. On page 10521, second column, under section C(3)(a), add paragraph (a)(v) to read as follows:

(v) Yelloweye rockfish–Closed (Retention prohibited)

* * * * *

6. On page 10521, third column, after paragraph (d), add C(4) to read as follows:

* * * * *

(4) *Groundfish taken with troll gear by vessels engaged in fishing for salmon north of 40°10′ N. lat.*

(a) In any trip in which salmon troll gear, as defined at 50 CFR 660.402, is used to take and land yellowtail rockfish north of 40°10′ N. lat., the following cumulative limit applies: no more than 1 lb (0.45 kg) of yellowtail rockfish may be landed for every 2 lbs (0.91 kg) of salmon landed, and no more than 300 lbs (136 kg) of yellowtail rockfish may be landed per month.

(b) The trip limits in Table 5 apply to all other groundfish taken with troll gear by vessels fishing for salmon.

* * * * *

Classification

These actions are authorized by the Pacific Coast groundfish FMP, the Halibut Act, and their implementing regulations, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the cumulative trip limit period for the Pacific Coast groundfish fishery begins May 1, 2002, and affording prior notice and opportunity for public comment would impede the agency's function of managing fisheries to achieve OY. Most of the trip limits adjustments in this document are reductions from the status quo. Decreases to trip limits must be implemented in a timely manner to protect overfished and depleted groundfish species and to prevent the harvest of healthy stocks from exceeding the OY for 2002. Because the Pacific Coast groundfish fishery is managed by trip limits, most of which are based on a 2– month cumulative period (January-February, March-April, May-June, July-August, September-October, November-December), these actions should be implemented by the beginning of the next cumulative trip limit period (May 1, 2002) to prevent fishers from harvesting the prior higher trip limits during that period before the new limit goes into place. Allowing fishers to continue harvesting the prior higher trip limits after the start of the cumulative trip limit period may cause premature fishery closures or more severe trip limit reductions in the future. For a few species, the trip limit adjustment is an increase. Increases to trip limits in this inseason action allow fishers to access groundfish allocations without exceeding the OY for those species or the OYs of overfished or depleted stocks and delaying the increase could prevent the industry from obtaining the intended benefit. In addition, the affected public had the opportunity to comment on these actions at the April 8–12, 2002, Pacific Council meeting. For these reasons, good cause also exists to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

These actions are taken under the authority of 50 CFR 300.63(a)(3) and 660.323(b)(1), and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: May 1, 2002.

Virginia M. Fay,

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

[FR Doc. 02–11218 Filed 5–2–02; 12:49 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020313058–2094–02 ; I.D. 030402A

RIN 0648–AP07

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2002 Specifications

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

ACTION: Final rule; final specifications.

SUMMARY: NMFS issues final specifications for the 2002 spiny dogfish fishery. This rule implements a commercial quota and possession limits for the 2002 fishing year to address overfishing of the spiny dogfish resource. This rule also makes a technical correction to the spiny dogfish regulations, to indicate that the target fishing mortality rate (F) specified for the period May 1, 2003 - April 30, 2004, should be F=0.03. This is specified in the Fishery Management Plan for the Spiny Dogfish fishery (FMP). The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the FMP, which require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of this fishery.

DATES: The amendment to part 648 is effective May 2, 2002. The 2002 final specifications are effective from May 2, 2002, through April 30, 2003.

ADDRESSES: Copies of supporting documents used by the Spiny Dogfish Monitoring Committee; the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/FRFA is also accessible via the Internet at http://www.nero.nmfs.gov.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Van Pelt, Fishery Policy Analyst, (978)281–9244, fax (978)281–9135, e-mail bonnie.l.vanpelt@noaa.gov.

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published in the **Federal Register** on March 22, 2002, (67 FR 13303). The comment period closed on April 8, 2002.

Background

The spiny dogfish fishery is managed under an FMP developed jointly by the Mid-Atlantic Fishery Management Council and the New England Fishery Management Council (Councils). The implementing regulations for the dogfish fishery are found at 50 CFR part 648, subpart L.

Pursuant to 50 CFR 648.230, the Administrator, Northeast Region, NMFS, (Regional Administrator) implements measures for the 2002 fishing year to assure that the target fishing mortality rate (F), as specified in the FMP, is not exceeded. The target F and management measures (i.e., semi-annual commercial quota and possession limits) are summarized below. Detailed background information regarding the development of the proposed specifications for the 2002 spiny dogfish fishery was provided in the preamble to the proposed rule (67 FR 13303, March 22, 2002) and is not repeated here. In addition to establishing the annual measures, this action makes a technical correction to

the spiny dogfish regulations to indicate that the target F, F=0.03, extends through April 30, 2004. The current regulations mistakenly reference a target F, F=0.03, through April 30, 2003.

Annual Commercial Quota and Possession Limits

The FMP specifies a target F of 0.03 for 2002 to be attained through a commercial quota, and possibly other management measures. This rule implements a commercial quota of 4 million lb (1.81 million kg) for the 2002 fishing year that is allocated on a semi-annual basis as follows: Quota Period 1 (May 1 - October 31) is allocated 57.9% of the 4-million lb (1.81 million kg) quota, or 2,316,000 lbs (1,050,512 kg), and Quota Period 2 (November 1 - April 30) is allocated 42.1% of the 4-million lb (1.81 million kg) quota, or 1,684,000 lbs (763,849 kg).

This final rule also maintains the existing possession limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota Period 1 and Quota Period 2, respectively, to allow for the retention of spiny dogfish caught incidentally while fishing for other species throughout the entire fishing year.

Technical Correction

This rule will correct the current regulatory text to extend the target F of 0.03 through the end of the 2003-2004 fishing year (May 1, 2003 - April 30, 2004).

Comments and Responses

There were 2 written comments submitted in response to the proposed rule during the comment period. One came from the Massachusetts Division of Marine Fisheries (MADMF) and the other was from a group of environmental organizations.

NMFS considered all comments received during the comment period that are directly related to the proposed measures in making the decision to issue this final rule.

Comment 1: MADMF was opposed to the level of the proposed commercial quota and requested that NMFS implement a higher quota consistent with the NEFMC recommendation. MADMF believes the resource can support a small-scale directed fishery and still rebuild.

Response: The Spiny Dogfish Monitoring Committee (Monitoring Committee) indicated that the quota of 4.0 million lb that NMFS is implementing through this final rule is consistent with the objective to achieve F=0.03, as required by the FMP. A higher quota would cause the F target to be exceeded and would not comply with the FMP's rebuilding program.

Comment 2: MADMF commented in favor of the higher possession limit of 7,000 lb recommended by the NEFMC and opposed the proposed possession limits. MADMF stated that processors could not operate efficiently (i.e., in cost effective manner) with erratic landing levels that would result from the lower possession limits.

Response: NMFS is maintaining the current possession limits (600 lb for Quota Period 1 and 300 lb for Quota Period 2) because these levels are intended to allow incidentally caught spiny dogfish to be landed during the quota period. Although these possession limits end the directed fishery, which depends on large volumes of landings of large spiny dogfish, this is an anticipated consequence of the FMP. This approach has been chosen because it is necessary to protect the mature female spiny dogfish stock component in order to rebuild the spawning stock. The 7,000 lb (3,175 kg) possession limit would allow for some directed fishing, which is inconsistent with the rebuilding program.

The impact of erratic bycatch landings on processors was considered fully during the development of the FMP. There were two scenarios anticipated in the FMP with respect to the impacts on the processing sector and resulting markets. First, markets for dogfish could be completely lost or, second, other market opportunities could develop. It was acknowledged that the first scenario would be the more likely. However, it was believed that the processing sector might adapt to the landings allowed during the rebuilding period.

Comment 3: The environmental organizations supported the 4-million lb commercial quota, while emphasizing that a 3-million lb quota would be more consistent with the rebuilding strategy outlined in the FMP. They also supported the proposed possession limits and strongly opposed higher possession limits, which would result in a directed fishery and derailed rebuilding efforts.

Response: NMFS is implementing the 4-million lb (1.81 million kg) commercial quota and 600 lb (272 kg)/ 300 lb (136 kg) possession limits for Quota Period 1 and 2, respectively consistent with the Monitoring Committee recommendation to maintain fishing mortality targets and rebuilding objectives of the FMP. The Monitoring Committee did not comment on a 3-million lb quota (1.35 million kg) quota, because the 4-million lb (1.81 million kg) commercial quota allows us to comply with the FMP's fishing mortality and rebuilding objectives, while affording the industry some economic relief. Any further reduction in landings would have to be considered in light of potential increased spiny dogfish bycatch and discards.

Changes From the Proposed Rule

The preamble of the proposed rule referenced trip limits, when in fact this rule implements possession limits--defined as the maximum amount that can be landed in any one 24-hr period (calendar day).

There were no changes made to the regulatory text from the proposed rule.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

This action establishes annual quotas and maintains the current possession limits for the spiny dogfish fishery, which are used to control the harvest of spiny dogfish and to restrict landings when quotas are attained. This action must be taken immediately at the start of the 2002 fishing year on May 1, 2002, to conserve this resource. It would be impracticable to delay implementation of the quota provisions because a hiatus in harvest restrictions represented by the quota would allow for an unrestricted harvest and, if spiny dogfish are congregated in areas where other species are being targeted, the Period 1 quota will quickly be attained. In the absence of a commercial quota, there would be no ability to close the fishery to prevent further increases in fishing mortality and potential deleterious effects to rebuilding efforts. Therefore, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the implementation of the 2002 Federal spiny dogfish quota.

NMFS and the MAFMC prepared a FRFA for this action. The FRFA includes comments on the Initial Regulatory Flexibility Act (IRFA), the discussion and the responses contained in the preamble to this final rule, and a summary of the analyses done in support of this action. Copies of the analysis are available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that entire discussion is not repeated here. A summary of the FRFA follows:

The reason that action is being taken by the agency and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule. This action does not contain any new collection-of-information, reporting,

recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules. There are no new compliance costs associated with this final rule.

Public Comments

None of the comments that were received on the measures contained in the proposed rule specifically referenced the IRFA analyses of the expected impacts of the proposed trip limit levels on small entities. Concerns about the impacts of the measures on industry were expressed and are discussed in the Comments and Responses section of this final rule (see response to Comments 1 and 2). No changes to the final rule were made as a result of these comments.

Number of Small Entities

The entities impacted by this action include 488 vessels that have reported (based on vessel trip report (VTR) data) spiny dogfish landings to NMFS in 2000 (the most recent year for which there is vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. It is not possible to identify these vessels, but some number of them are likely to be impacted. There is no reason to presume the impacts on these vessels would be substantially different from the impact on Federally-permitted vessels. Furthermore, 2,079 vessels were issued Federal spiny dogfish permits in 2001, but a large percentage of those have not fished for spiny dogfish. It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive trip limits. If any of these vessels should choose to participate in the upcoming fishing year, they might experience revenue increases associated with landings of spiny dogfish but those increases cannot be estimated.

Minimizing Significant Economic Impact on Small Entities

This FRFA summary includes a discussion of minimizing significant economic impacts on small entities. The IRFA analyzed three alternatives: (1) Alternative 1 is implemented by this action (commercial quota of 4-million lb (1,814 mt) and possession limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota Period 1 and Quota Period 2, respectively); (2) Both Alternative 2 (commercial quota of 8.8 million lb (4 million kg) and a possession limit of 7,000 lb (3,175 kg) for both quota periods) and Alternative 3 (no quota or possession limits) would have lower impact on small entities, but neither meets the conservation objectives of the FMP. Alternative 2 could not be enacted without amending the FMP to modify the F target specified in the rebuilding program. The circumstance contemplated in Alternative 3 could not be allowed under the FMP, which requires the fishery be managed consistent with the FMP.

The FMP determined that the spiny dogfish stock could not support a directed fishery. In the absence of a directed fishery, long-term profitability and solvancy issues could not have been anticipated and would be difficult to compute. Therefore, the potential changes in 2002 revenues under the 4-million lb (1.81-million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.6 million lb (2.08 million kg) of landings, valued at $1,012,000. The analysis is based on the last full fishing year of landings data and assumed that the revenues of the 488 vessels that landed spiny dogfish in 2000 would be reduced proportionately by the proposed action. The reduction in overall gross revenues to the fishery as a whole was estimated to be about $132,000, or about $270 per vessel, compared to fishing year 2001. Compared to actual dogfish landings during the 2001 fishing year of 4.6 million lb (2,087 mt), the 4.0 million-lb (1,814 mt) quota represents a 13 percent reduction. However, the 4.0 million-lb (1,814 mt) quota would not be a reduction relative to the 2001 fishing year quota allocation. It is only due to the landings in excess of the quota that this quota specification for spiny dogfish is expected to result in a reduction in revenues.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 1, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.230, paragraph (a) is revised to read as follows:

§ 648.230 Catch quotas and other restrictions.

* * * * *

(a) *Annual review.* The Spiny Dogfish Monitoring Committee will annually review the following data, subject to availability, to determine the total allowable level of landings (TAL) and other restrictions necessary to assure a target fishing mortality rate (F) of 0.2 in 1999 through April 30, 2000, a target F of 0.03 from May 1, 2000, through April 30, 2004, and a target F of 0.08 thereafter will not be exceeded: Commercial and recreational catch data; current estimates of F; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling data; impact of gear other than otter trawls and gill nets on the mortality of spiny dogfish; and any other relevant information.

* * * * *

[FR Doc. 02–11271 Filed 5–2–02; 3:28 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020430101–2101–01; I.D. 042902A]

RIN 0648–AP52

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2002 Management Measures

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

ACTION: Annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS establishes fishery management measures for the 2002 ocean salmon fisheries off Washington, Oregon, and California, and the 2003 salmon seasons opening earlier than May 1, 2003. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. exclusive economic zone (EEZ)(3–200 nm) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-treaty commercial,

and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and for inside fisheries (fisheries occurring in state internal waters).

DATES: Effective from 0001 hours Pacific Daylight Time, May 1, 2002, until the effective date of the 2003 management measures, as published in the **Federal Register**. Comments must be received by May 22, 2002.

ADDRESSES: Comments on the management measures and the related environmental assessment (EA) may be sent to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115–0070, fax: 206–526–6376; or to Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, fax: 562–980–4018. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the EA and other documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Svein Fougner at 562–980–4040.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a ''framework'' fishery management plan entitled the Pacific Coast Salmon Plan (Salmon FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the Salmon FMP, by notification in the **Federal Register**.

These management measures for the 2002 and pre-May 2003 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 8 to 12, 2002, meeting.

Schedule Used To Establish 2002 Management Measures

The Council announced its annual preseason management process for the 2002 ocean salmon fisheries in the **Federal Register** on January 9, 2002 (67 FR 1186). This document announced the availability of Council documents as well as the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April Council meetings were published in subsequent **Federal Register** documents prior to the actual meetings.

In accordance with the Salmon FMP, the Council's Salmon Technical Team (STT) and staff economist prepared a series of reports for the Council, its advisors, and the public. The first of the reports was prepared in February when the necessary scientific information first became available. The first report, ''Review of 2001 Ocean Salmon Fisheries'' (REVIEW), summarizes biological and socio-economic data for the 2001 ocean salmon fisheries and assesses how well the Council's 2001 management objectives were met. The second report, ''Preseason Report I Stock Abundance Analysis for 2002 Ocean Salmon Fisheries'' (PRE I), provides the 2002 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 2001 regulations and regulatory procedures were applied to the projected 2002 stock abundances. For coho salmon there was an insufficient abundance of marked (adipose fin clipped) hatchery coho forecast for 2002; therefore, the 2000 regulations were used to model projected impacts. The completion of Preseason Report I is the initial step in the evaluating the full suite of preseason options.

The Council met in Sacramento, CA from March 11 to 15, 2002, to develop 2002 management options for proposal to the public. The Council proposed three options of commercial and recreational fisheries management for analysis and public comment. These options consisted of various combinations of management measures designed to protect weak stocks of coho and chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, ''Preseason Report II Analysis of Proposed Regulatory Options for 2002 Ocean Salmon Fisheries,'' which analyzes the effects of the proposed 2002 management options. This report was made available to the Council, its advisors, and the public.

Public hearings to receive testimony on the proposed options were held on: April 1, 2002, in Westport, WA and Coos Bay, OR; April 2, 2002, in Tillamook, OR and Eureka, CA; and April 3, 2002, in Moss Landing, CA. The Council also received public testimony at both the March and April meetings, and received written comments at the Council office.

The Council met from April 8 to 12, 2002, in Portland, OR to adopt its final 2002 recommendations. Following the April Council meeting, the Council's STT and staff economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 2002 Ocean Salmon Fisheries,'' which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was made available to the Council, its advisors, and the public. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter.

Resource Status

Since 1989, NMFS has listed under the Endangered Species Act (ESA) 16 evolutionarily significant units (ESUs) of salmon on the west coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations and issued biological opinions (BOs) that consider the impacts to listed salmonid species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures. Associated with the BOs are incidental take statements that specify the level of take that is exempted from the section 9 prohibitions of the ESA. Some of the BOs have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other BOs have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. In a March 8, 2002, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA in anticipation of the BO in

preparation for the 2002 management season for Sacramento River winter chinook.

Estimates of the 2001 spawning escapements for key stocks managed under the Salmon FMP and preseason estimates of 2002 ocean abundance are provided in the Council's REVIEW and PRE I documents. The primary resource and management concerns are for salmon stocks listed under the ESA.

NMFS has listed three ESUs of coho under the ESA: central California coastal, southern Oregon/northern California coastal, and Oregon coastal (61 FR 56138, October 31, 1996; 62 FR 43937 August 18, 1997; and 63 FR 42587, August 10, 1998, respectively). The three northern sub-stocks of Oregon coastal natural (OCN) coho comprise the Oregon coastal coho ESU. OCN coho are the largest naturally produced component of the natural and hatchery coho stocks originating from rivers south of Leadbetter Point, WA. OCN coho are managed as a stock aggregate with four identified sub-stocks that include coho produced from Oregon river and lake systems south of the Columbia River. NMFS' ESA consultation standards require that the three OCN northern sub-stocks be managed in accordance with Amendment 13 to the Salmon FMP, which permits an exploitation rate of up to 15 percent under the current level of marine survival and parent spawner status. The southern sub-stock is part of the southern Oregon/northern California coastal ESU and must be managed in accordance with the requirements for that ESU. The 2002 ocean abundance estimate for OCN is 71,800 coho, which is 143 percent of the 2001 preseason prediction of 50,100 coho, and 44 percent of the post-season estimate of 163,200 coho (PRE I).

Central California coastal coho and southern Oregon/northern California coastal coho are listed as threatened species under the ESA (61 FR 56138, October 31, 1996, and 62 FR 24588, May 6, 1997). Coho populations in California have not been monitored closely in the past, and no forecasts of the ocean abundance of listed coho originating from California are available; these runs have been generally at low abundance levels for many years. NMFS' ESA consultation standards for the southern Oregon/northern California coastal coho and Central California coastal coho ESUs require that the ocean exploitation rate on Rogue/Klamath hatchery coho be constrained to 13 percent or less, and that the retention of coho in recreational and commercial fisheries off California be prohibited.

Sacramento River winter chinook is listed as an endangered species under the ESA (59 FR 440, January 4, 1994). The Council, at its March 2002 meeting, initiated the FMP amendment process to develop recovery and long term conservation objectives for Sacramento River winter chinook and Central Valley spring chinook. The amendment is on a schedule for completion by November 2003. NMFS has issued a 2-year biological opinion to accommodate the amendment process. The ESA consultation standard for the 2002 seasons requires that the duration and timing of commercial and recreational seasons south of Point Arena, California, not change substantially relative to the 2000 and 2001 seasons. Spawning populations of Sacramento River winter chinook have consistently increased since 1994; the spawner abundance in 2001 was estimated to be 7,200 fish.

California Central Valley spring chinook is listed as a threatened species under the ESA (64 FR 50394, September 16, 1999). Since 1994, the spawning populations of Central Valley spring chinook returning to Deer, Mill, and Butte creeks have increased, with relatively strong returns to Butte Creek. The combined escapement of the three populations in 2001 was 12,300 fish.

California coastal chinook is listed as a threatened species under the ESA (64 FR 50394, September 16, 1999). Coastal chinook spawning populations are not well monitored and no estimate of an ocean exploitation rate is available. NMFS' ESA consultation standard for California coastal chinook requires that the ocean harvest rate on Klamath River fall chinook not exceed 0.16, which is the maximum observed since 1996. The standard is intended to prevent harvest impacts on California coastal chinook from increasing substantially above levels that have occurred since 1996.

Snake River wild fall chinook is listed under the ESA as a threatened species (57 FR 14653, April 22, 1992). Direct information on the stock's ocean distribution and on fishery impacts is not available. Fishery impacts on Snake River fall chinook are evaluated using the Lyons Ferry Hatchery stock as an indicator. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska. NMFS' ESA consultation standard requires that Council fisheries must be managed to ensure that the exploitation rate on age-3 and age-4 adults for the combined Southeast Alaska, Canadian, and Council fisheries is 30 percent less than that observed during the 1988–1993 base period.

This is the third year that NMFS provided guidance to the Council related to the Puget Sound chinook ESU (64 FR 14308, March 24, 1999). NMFS' consultation standards for Puget Sound chinook stocks are expressed in terms of total or southern U.S. fishery exploitation rate ceilings, or terminal escapement objectives. Under the current management structure, Council fisheries are included as part of the suite of fisheries that comprise the fishing regime negotiated each year by the co-managers under *U.S.* v. *Washington* to meet management objectives for Puget Sound and Washington Coastal salmon stocks. Because these management objectives and the management planning structure address fisheries wherever they exist, Council and Puget Sound fisheries are interconnected. Therefore, in adopting its regulations, the Council must determine that its fisheries in the ocean, when combined with the suite of other fisheries impacting this ESU, meet the management targets set for stocks within this ESU. NMFS estimated in its BO for 2000 fisheries that the exploitation rates from Council-managed fisheries on Puget Sound spring and fall chinook stock aggregates have been zero and three percent or less, respectively, in recent years. Management actions taken to meet exploitation rate targets will, therefore, occur primarily in the Puget Sound fisheries, but the nature of the existing process is such that ocean fishery impacts will be accounted for, and are potentially liable to constraining measures to meet particular targets.

NMFS has evaluated the ''Puget Sound Comprehensive Chinook Management Plan: Harvest Management Component as a Resource Management Plan'' for Puget Sound chinook, and the ''Summer Chum Salmon Conservation Initiative—An Implementation Plan to Recover Summer Chum in the Hood Canal and Strait of Juan de Fuca Region'' for Hood Canal summer chum, under ESA 4(d) rule (65 FR 42422, July 10, 2000) (the RMPs). The RMPs, jointly developed by the Washington Department of Fish and Wildlife and the Puget Sound Treaty Tribes, include stock-specific harvest management objectives for Puget Sound chinook and Hood Canal summer chum. NMFS has determined that the RMPs are consistent with the ESA 4(d) rule, and that the 2002 ocean and inside fisheries are consistent with the RMPs and associated biological opinion. For the 2002 fisheries the Hood Canal summer chum RMP requires non-retention of chum north of Cape Alava during August and September.

Management Measures for 2002 Fisheries

The Council recommended ocean harvest levels and management measures for 2002 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the Salmon FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable law, including the ESA and U.S. obligations to Indian tribes with federally recognized fishing rights. Accordingly, NMFS has adopted them.

The dominant issue before the Council in the development of the 2002 management measures for the west coast ocean salmon fisheries was achieving an ocean exploitation rate on OCN coho that would meet the State of Oregon's management objective for ocean harvest of lower Columbia River wild coho. Lower Columbia River coho are not federally listed, however they are listed as an endangered species by the State of Oregon. To protect lower Columbia River coho, Oregon recommended to the Council an ocean exploitation rate on OCN of 10.5–12.5 percent. No ocean exploitation rate estimate is available for lower Columbia River coho, and OCN were used as the best available surrogate. The ESA and Salmon FMP objective for OCN is less than or equal to 15 percent. The reduced abundance of coho, particularly the hatchery stocks, also constrained access to the strong Columbia River chinook runs.

The Oregon Production Index of Oregon coastal and Columbia River hatchery coho stocks is forecast to be only 300,000 fish for 2002, compared to 1.7 million fish in 2001. At the same time, the OCN population is forecast to improve to 71,800 fish, up from the 50,100 coho forecast in 2001. This combination of OCN and hatchery coho abundances required significant constraints on ocean fisheries in order to meet Oregon's OCN management objective for lower Columbia River wild coho. The North of Falcon coho quota in 2002 is only about 47 percent of the 2001 quota.

From the U.S.-Canada border to Cape Falcon, OR, ocean fisheries are managed to protect depressed lower Columbia River fall chinook salmon and Washington coastal and Puget Sound natural coho salmon stocks, and to meet ESA requirements for Snake River fall chinook salmon. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, commercial and recreational fishing groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v. *Washington*, No. C70–9213 (W.D. Wash.); *U.S.* v. *Oregon*, Civil No. 68–513 (D.Or.); and *Hoh Indian Tribe* v. *Baldrige* 522 F. Supp. 683 (1981).

North of Cape Falcon, OR, the 2002 management measures have substantially higher chinook quotas but much lower coho quotas relative to the 2001 season. The total allowable catch for 2002 is 150,000 chinook and 140,000 coho; these fisheries are restricted to protect depressed lower Columbia River wild coho, Washington coastal, Puget Sound, and OCN coho. Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada Border. North of Cape Alava there is a new provision requiring non-retention of chum during August and September.

South of Cape Falcon, OR, the retention of coho is prohibited, except for a recreational selective fishery off Oregon with a 22,500-fish quota of marked hatchery coho. Chinook fisheries are constrained primarily to meet the ESA standards for California coastal chinook and Sacramento River winter chinook. The Council's recommendations were below the 15-percent exploitation rate permitted under Amendment 13 to protect listed OCN coho stocks, with an expected 12.3-percent OCN coho exploitation rate and a 7.5-percent marine exploitation rate for Rogue/Klamath coho.

Treaty Indian Fisheries

The treaty-Indian commercial troll fishery quota is 60,000 chinook in ocean management areas and Area 4B combined, a significant increase from 2001. The fisheries include a chinook-directed fishery in May and June (under a quota of 30,000 chinook) and an all-salmon season beginning in July with a 30,000 chinook sub-quota. The coho quota for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B for the July–September period is 60,000 coho, a decrease from 2001.

Management Measures for 2003 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2003 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended, and NMFS concurs, that the recreational seasons from Horse Mountain to the U.S.-Mexico Border will open off California in 2003 as indicated in the season description section. At the November 2002 meeting, the Council may consider inseason recommendations to adjust commercial and recreational seasons for all salmon except coho prior to May 1 in areas off Oregon south of Cape Falcon. At the March 2003 meeting, the Council may consider inseason recommendations to open commercial seasons for all salmon except coho prior to May 1 in areas off Washington and Oregon north of Cape Falcon.

Inseason Actions

The following sections set out the management regime for the salmon fishery. Open seasons and days are described in Sections 1, 2, and 3 of the 2002 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the U.S. Coast Guard Notice to Mariners as described in Section 7. Other inseason adjustments to management measures are also announced on the hotline and through the Notice to Mariners.

The following are the management measures recommended by the Council and approved and implemented by NMFS for 2002 and, as specified, for 2003.

Section 1. Commercial Management Measures for 2002 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery.

A. Season Description

North of Cape Falcon

U.S.-Canada Border to Cape Falcon

May 1 through earlier of June 30 or 50,000 chinook quota. All salmon except coho (C.6). See gear restrictions (C.2.a). Cape Flattery and Columbia Control Zones closed (C.4.a, C.4.b). Vessels must land and deliver their fish within the area, in adjacent areas closed to commercial non-Indian salmon fishing, or in areas south of Cape Falcon, and within 24 hours of any

closure of this fishery; State regulations require that fishers fishing within this area and intending to land salmon south of Cape Falcon notify Oregon Department of Fish and Wildlife (ODFW) before they leave the area at the following phone number (541) 867–0300, Ext. 252. Inseason actions may modify quotas or harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.7.a).

Except as provided below during the selective fishery, the season will be: July 1 through earlier of September 8 or 32,500 chinook quota (C.7.a). All salmon except coho, and no chum retention north of Cape Alava during August and September. Gear restricted to plugs 6 inches (15.2 cm) or longer between U.S.-Canada Border to Leadbetter Point (C.2.b). Cape Flattery and Columbia Control Zones closed (C.4.a, C.4.b). Vessels must land and deliver their fish within the area, in adjacent areas closed to commercial non-Indian salmon fishing, or in areas south of Cape Falcon, and within 24 hours of any closure of this fishery. No more than four spreads per line between Cape Falcon and Leadbetter Point (C.2.c). Trip limits, gear restrictions, and guidelines may be implemented or adjusted inseason (C.7.a).

Selective Fishery for Adipose Fin Clipped Coho

Leadbetter Point to Cape Falcon: All salmon August 1 through earlier of September 8 or subarea quota of 5,000 adipose fin clipped coho (all retained coho must have a healed adipose fin clip). Fishery will remain open for all salmon except coho after the marked hatchery coho quota is reached, provided adequate chinook impacts remain on the 32,500 chinook quota. Washington state regulations require fishers fishing within this subarea to land coho south of Leadbetter Point. Oregon state regulations require that fishers fishing within this subarea and intending to land chinook or coho south of this subarea notify ODFW before they leave the subarea at the following phone number (541) 867–0300 Ext. 252. Trip limits, gear restrictions, and guidelines may be implemented or adjusted inseason.

South of Cape Falcon

Cape Falcon to Florence South Jetty

March 20 through July 15; August 1 through August 29; and September 1 through October 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d) and Oregon State regulations for a description of the closed area at the mouth of Tillamook Bay.

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

Florence South Jetty to Humbug Mountain

March 20 through June 30; July 17 through August 29; and September 1 through October 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d).

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

Humbug Mountain to Oregon-California Border

March 20 through May 31. All salmon except coho. See gear restrictions (C.2.a, C.2.d).

June 1 through earlier of June 30 or 3,000 chinook quota; July 1 through earlier of July 31 or 1,500 chinook quota; August 1 through earlier of August 29 or 3,000 chinook quota; and September 1 through earlier of September 30 or 2,000 chinook quota. No transfer of remaining quota from earlier fisheries allowed. All salmon except coho. Possession and landing limit of 50 fish per trip. See gear restrictions (C.2.a, C.2.d). All salmon must be landed and delivered to Gold Beach, Port Orford, or Brookings, and within 24 hours of closure.

In 2003 the season will open March 15 for all salmon except coho. This opening could be modified following Council review at its November 2002 meeting.

Oregon-California Border to Humboldt South Jetty

August 16 through the earlier of August 30 or 3,000 chinook quota and September 1 through earlier of September 30 or 10,000 chinook quota. All salmon except coho. Possession and landing limit of 40 fish per day. See gear restrictions (C.2.a, C.2.e). All fish must be landed within the area and within 24 hours of any closure of the fishery. When the fishery is closed between the OR–CA border and Humbug Mountain and open to the south, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, OR prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival. Klamath Control Zone closed (C.4.c).

Horse Mountain to Point Arena (Fort Bragg)

July 20 through earlier of July 30 or 10,000 chinook quota; August 1 through August 30; and September 1 through September 30. All salmon except coho. All fish caught in this area in July and August must be landed within the area. All fish caught in this area must be landed within 24 hours of any closure of the fishery. See gear restrictions (C.2.a, C.2.e).

Point Arena to Pigeon Point (San Francisco)

May 1 through September 30. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

Point Reyes to Point San Pedro (Fall Area Target Zone)

October 1 through October 18, Monday through Friday. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

Pigeon Point to U.S.-Mexico Border

May 1 through September 30. All salmon except coho. Minimum size limit 26 inches (66.0 cm) total length. See gear restrictions (C.2.a, C.2.e).

B. MINIMUM SIZE

[Inches]

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	28.0	21.5	16.0	12.0	None.

B. MINIMUM SIZE—Continued

[Inches]

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
South of Cape Falcon	[a] 26.0	[a] 19.5	.....	.....	None.

[a] Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

Metric equivalents: 28.0 in=71.1 cm, 26.0 in=66.0 cm, 21.5 in=54.6 cm, 19.5 in=49.5 cm, 16.0 in=40.6 cm, 12.0 in=30.5 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size or Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.2. *Gear Restrictions:*

a. Single point, single shank, barbless hooks are required in all fisheries.

b. *U.S.-Canada Border to Leadbetter Point, July 1 to September 8:* Gear restricted to plugs with a one piece body that is at least six inches long, not including hooks or attachments.

c. *Leadbetter Point to Cape Falcon, July 1 to September 8:* No more than 4 spreads are allowed per line.

Spread defined: A single leader connected to an individual lure or bait.

d. *Off Oregon South of Cape Falcon:* No more than 4 spreads are allowed per line.

e. *Off California:* No more than 6 lines are allowed per vessel and barbless circle hooks are required when fishing with bait by any means other than trolling.

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

Trolling defined: Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

C.3. *Transit Through Closed Areas with Salmon on Board:* It is unlawful for a vessel to have troll or recreational gear in the water while transiting any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species and no salmon are in possession.

C.4. *Control Zone Definitions:*

a. *Cape Flattery Control Zone:* The area from Cape Flattery (48°23′00″ N. lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava, 48°10′00″ N. lat. and east of 125°05′00″ W. long.

b. *Columbia Control Zone:* An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

c. *Klamath Control Zone:* The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles (11.1 km) south of the Klamath River mouth).

C.5. *Notification When Unsafe Conditions Prevent Compliance with Regulations:* If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board and the estimated time of arrival.

C.6. *Incidental Halibut Harvest:* During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.3 cm) in total length (with head on). License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after June 30 if quota remains and if announced on the NMFS hotline (phone 800–662–9825). ODFW and Washington Department of Fish and Wildlife (WDFW) will monitor landings. If the landings are projected to exceed the 39,300-lb. (17.8-mt) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery.

License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip.

C.7. *Inseason Management:* In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

a. In the overall non-Indian commercial chinook quota north of Cape Falcon, 20,000 chinook from the May/June harvest quota are the result of impacts assessed at the July–September harvest impact rate. Inseason, these 20,000 chinook (or remaining portion thereof) may be transferred to the July–September harvest guideline at a one-to-one rate if not caught in the May/June fishery. Any chinook remaining in the May/June harvest guideline in excess of 20,000 may be transferred to the July–September harvest guideline on a fishery impact equivalent basis.

b. At the March 2003 meeting, the Council will consider inseason

recommendations to open commercial seasons for all salmon except coho prior to May 1 in areas off Oregon and Washington north of Cape Falcon.

C.8. Consistent with Council management objectives, the State of Oregon may establish additional late-season, chinook-only fisheries in state waters. Check state regulations for details.

C.9. For the purposes of CDFG Code, Section 8232.5, the definition of the Klamath Management Zone for the ocean salmon season shall be that area from Humbug Mountain, OR to Horse Mountain, CA.

Section 2. Recreational Management Measures for 2002 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C that must be followed for lawful participation in the fishery.

A. Season Description

North of Cape Falcon

U.S.-Canada Border to Cape Falcon

May 25 through earlier of June 16 or 20,000 chinook quota (7 days per week) (C.4.). Chinook salmon only; 2 fish per day. See gear restrictions (C.2.a). Columbia Control Zone closed (C.3.a).

U.S.-Canada Border to Cape Alava (Neah Bay Area)

July 7 through earlier of September 8 or 11,780 coho subarea quota, 7 days per week. All salmon, except no chum retention during August and September; 2 fish per day and all retained coho must have a healed adipose fin clip. Chinook non-retention east of the Bonilla-Tatoosh line during the Council managed recreational ocean fishery in July through September. The Bonilla-Tatoosh Line is defined as a line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23′30″ N. lat., 124°44′12″ W. long.) to the buoy adjacent to Duntze Rock (48°28′00″ N. lat., 124°45′00″ W. long.), then in a straight line to Bonilla Point (48°35′30″ N. lat., 124°43′00″ W. long.) on Vancouver Island, BC. Inseason management may be used to sustain season length and keep harvest within a guideline of 2,600 chinook (C.4).

Cape Alava to Queets River (La Push Area)

July 7 through earlier of September 8 or 2,770 coho subarea quota; September 21 through earlier of October 6 or overall subarea quota of 100 coho and 100 chinook; 7 days per week. All salmon; 2 fish per day and all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 1,600 chinook (C.4).

Queets River to Leadbetter Point (Westport Area)

June 30 through earlier of September 8 or 39,280 coho subarea quota. Sunday through Thursday prior to August 16, 7 days per week thereafter. All salmon. 2 fish per day and all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 32,000 chinook (C.4).

Leadbetter Point to Cape Falcon (Columbia River Area)

July 7 through earlier of September 30 or 55,700 coho subarea quota. Sunday through Thursday prior to August 16, 7 days per week beginning August 16. All salmon. Two fish per day and all retained coho must have a healed adipose fin clip. Closed between Cape Falcon and Tillamook Head beginning August 1. Columbia Control Zone closed (C.3.a). See gear restrictions (C.2.a). Inseason management may be used to sustain season length and keep harvest within a guideline of 11,200 chinook (C.4).

South of Cape Falcon

Cape Falcon to Humbug Mountain

Except as provided below during the selective fishery, the season will be April 1 through October 31. All salmon except coho; 2 fish per day. See gear restrictions (C.2.a, C.2.b). See Oregon State regulations for a description of a closure at the mouth of Tillamook Bay.

In 2003 the season will open March 15 for all salmon except coho. Two fish per day. Same gear restrictions as in 2002. This opening could be modified following Council review at its November 2002 meeting.

Selective fishery for marked coho: July 7 through earlier of August 4 or a landed catch of 22,500 coho; 7 days per week. All salmon; 2 fish per day, all retained coho must have a healed adipose fin clip. See gear restrictions (C.2.a, C.2.b). Open days may be adjusted to utilize the available quota. All salmon except coho season reopens the earlier of August 5 or attainment of the coho quota.

Humbug Mountain to Horse Mountain (Klamath Management Zone)

May 15 through June 30; July 3 and 4; and August 1 through September 15. All salmon except coho; 2 fish per day; no more than 6 fish in 7 consecutive days. See gear restrictions (C.2.a, C.2.b). Klamath Control Zone closed in August (C.3.b).

Horse Mountain to Point Arena (Fort Bragg)

February 16 through July 7 and July 20 through November 17. All salmon except coho; 2 fish per day. Minimum size 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, season opens February 15 for all salmon except coho. 2 fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

Point Arena to Pigeon Point (San Francisco)

April 13 through November 10. All salmon except coho; 2 fish per day. Minimum size limit 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, the season will open April 12 for all salmon except coho. 2 fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

Pigeon Point to U.S.-Mexico Border

March 30 through September 29. All salmon except coho; 2 fish per day. Minimum size limit 24 inches (61.0 cm) total length through April 30 and 20 inches (50.8 cm) total length thereafter. See gear restrictions (C.2.a, C.2.b, C.2.c).

In 2003, the season will open March 29 for all salmon except coho. Two fish per day, 24-inch (61.0-cm) total length minimum size limit and the same gear restrictions as in 2002.

B. MINIMUM SIZE

[Total length in inches]

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None

B. MINIMUM SIZE—Continued

[Total length in inches]

Area (when open)	Chinook	Coho	Pink
Cape Falcon to Horse Mountain	20.0	16.0	None, except 20.0 off CA.
South of Horse Mt. Prior to May 1	24.0	.....	20.0
Beginning May 1	20.0	.....	20.0

Metric equivalents: 24.0 in=61.0 cm, 20.0 in=50.8 cm, 16.0 in=40.6 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size and Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished, and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.2. *Gear Restrictions:* All persons fishing for salmon, and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

a. *U.S.-Canada Border to Point Conception, California:* No more than one rod may be used per angler and single point, single shank barbless hooks are required for all fishing gear.

[**Note:** ODFW regulations in the state-waters fishery off Tillamook Bay may allow the use of barbed hooks to be consistent with inside regulations.]

b. *Between Cape Falcon, OR and Point Conception, CA:* Anglers must use no more than 2 single point, single shank, barbless hooks.

c. *Off California between Horse Mountain and Point Conception:* Single point, single shank, barbless circle hooks (see circle hook definition below) must be used if angling with bait by any means other than trolling and no more than 2 such hooks shall be used. When angling with 2 hooks, the distance between the hooks must not exceed 5 inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

Trolling defined: Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

C.3. *Control Zone Definitions:*

a. *Columbia Control Zone:* An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and the green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N. lat., 124°05′20″ W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

b. *Klamath Control Zone:* The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nautical miles (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nautical miles (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles (11.1 km) south of the Klamath River mouth).

C.4. *Inseason Management:* Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing. NMFS may transfer coho inseason among recreational subareas north of Cape Falcon to help meet the recreational season duration objectives (for each subarea) after conferring with the states, Council, representatives of the affected ports, and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon.

In addition to the above and modifications already noted under season descriptions, the following guidance is provided to NMFS:

In the overall recreational chinook quota north of Cape Falcon, 10,000 chinook from the May/June harvest quota are the result of impacts assessed at the July-September harvest impact rate. Inseason, these 10,000 chinook (or remaining portion thereof) may be transferred to the July-September harvest guideline at a one-to-one rate if not caught in the May/June fishery. Any chinook remaining in the May/June harvest guideline in excess of 10,000 may be transferred to the July-September harvest guideline on a fishery impact equivalent basis.

C.5. *Additional Seasons in State Territorial Waters:* Consistent with Council management objectives, the states of Washington and Oregon may establish limited seasons in state waters. Oregon state-water fisheries are limited to chinook salmon. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2002 Ocean Salmon Fisheries

Note: This section contains restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Descriptions

Tribe and area boundaries	Open seasons	Salmon species	Minimum size (inches)		Special restrictions by area
			Chinook	Coho	
MAKAH—Washington State Statistical Area 4B and that portion of the FMA north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	
QUILEUTE—That portion of the FMA between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	
HOH—That portion of the FMA between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	
QUINAULT—That portion of the FMA between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	July 1 through earliest of September 15 or chinook or coho quota.	All	24	16	

* Metric equivalents: 24 in=61.0 cm, 16 in=40.6 cm.

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

B.2. Applicable lengths for dressed, head-off salmon, are 18 inches (45.7 cm) for chinook and 12 inches (30.5 cm) for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

Makah Tribe: None.

Quileute, Hoh and Quinault tribes: Not more than 2 chinook longer than 24 inches (61.0 cm) in total length may be retained per day. Chinook less than 24 inches (61.0 cm) total length may be retained.

B.3. The area within a 6 nautical mile (11.1 km) radius of the mouths of the Queets River (47°31′42″ N. lat.) and the Hoh River (47°45′12″ N. lat.) will be closed to commercial fishing. A closure within 2 nautical miles (3.7 km) of the mouth of the Quinault River (47°21′00″ N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall treaty troll ocean quotas are 60,000 chinook and 60,000 coho. The overall chinook quota is divided into 30,000 chinook for the May/June chinook-directed fishery and 30,000 chinook for the July through September all-salmon season. If the chinook quota for the May/June fishery is not fully utilized, the excess fish cannot be transferred into the later all-salmon season. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30.

Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery which appear at 50 CFR part 300, subpart E. In addition, the 2002 Pacific halibut management measures were published in the **Federal Register** on March 20, 2002 (67 FR 12885). The regulations and management measures provide that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), which have obtained the appropriate International Pacific Halibut Commission (IPHC) license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by IPHC, and implemented by NMFS. The operator of a vessel who has been issued an incidental halibut harvest license by the IPHC may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. Incidental harvest is authorized only during the May and June troll seasons. It is also authorized after June 30 if halibut quota remains and if halibut retention is announced on the NMFS hotline (phone 800–622–9825). License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 inches (81.3 cm). The ODFW and WDFW will monitor landings and, if they are projected to exceed the 39,300-lb. (17.8-mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery. License applications for incidental harvest must be obtained from the IPHC. Applicants must apply prior to April 1 of each year.

Section 5. Gear Definitions and Restrictions

In addition to the gear restrictions shown in Section 1, 2, and 3, the following gear definitions and restrictions are applicable:

Commercial Troll Fishing Gear: Troll fishing gear for the ocean salmon fisheries in the EEZ off Washington, Oregon, and California is defined as one or more lines that drag hooks behind a

moving fishing vessel. In that portion of the fishery management area (FMA) off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear: Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with no more than one artificial lure or natural bait attached. In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 lb (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon and no person fishing from a boat with salmon on board may use more than one rod and line. Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Section 6. Geographical Landmarks

Wherever the words ''nautical miles off shore'' are used in this document, the distance is measured from the baseline from which the territorial sea is measured. Geographical landmarks referenced in this document are at the following locations:

Cape Flattery	48°23′00″ N. lat.
Cape Alava	48°10′00″ N. lat.
Queets River	47°31′42″ N. lat.
Leadbetter Point	46°38′10″ N. lat.
Cape Falcon	45°46′00″ N. lat.
Florence South Jetty	44°00′54″ N. lat.
Humbug Mountain	42°40′30″ N. lat.
Oregon-California Border.	42°00′00″ N. lat.
Humboldt South Jetty	40°45′53″ N. lat.
Horse Mountain	40°05′00″ N. lat.
Point Arena	38°57′30″ N. lat.
Point Reyes	37°59′44″ N. lat.
Point San Pedro	37°35′40″ N. lat.
Pigeon Point	37°11′00″ N. lat.
Point Conception	34°27′00″ N. lat.

Section 7. Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This notification of annual management measures is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment.

The time-frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures is driven by the availability of biological data. Ocean salmon fisheries are directed primarily at maturing fish destined to return to freshwater and spawn each year. Fisheries are adjusted annually based on the status of the affected stocks that particular year. But the information necessary to forecast stock status, particularly escapement information, is not available until the first part of each year, since spawning escapement continues through the fall. The preseason planning and public review process is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. The government entities also involve the affected user groups. This complex process is compressed into a 2-month period which culminates at the April Council meeting in order to provide decisions necessary prior to the start of fisheries on May 1. Fisheries generally begin May 1 to provide access to harvestable fish and greater flexibility to use time/area constraints to meet conservation and use objectives.

As described earlier (See Schedule Used to Establish 2002 Management Measures), the Council solicited public comment on these measures and has notified the public of the measures it recommended for implementation. In addition to the Council process, notice and opportunity for public comment is provided through meetings and caucuses of State, Tribal, local governments, and the various user groups. This parallel process occurs throughout the February to April time-frame when Council managed salmon fisheries are developed. The major meetings that concern salmon fisheries on the west coast include the Klamath Fishery Management Council, established at 16 U.S.C. 46085–2; North of Cape Falcon Forum, sponsored by the state of Washington and northwest Indian tribes with treaty fishing rights; *U.S.* v. *Oregon* meetings related to ocean and Columbia River fisheries; Oregon Fish and Wildlife Commission; and California Fish and Game Commission. Recommendations and information from these forums are incorporated into the Council process when representatives from these entities provide comments and information at Council sponsored functions.

Providing additional opportunity for prior notice and public comments on these measures through a proposed and final rulemaking process would be impracticable and contrary to the public interest. Given the need to protect extremely low returns of many ocean salmon stocks listed under the ESA, the need to prevent overfishing, the need to facilitate a level of escapement to meet the requirements of the resource and inside fisheries, and the need to allow harvest of fish that can be harvested while still allowing appropriate escapements; it is essential to have these measures effective at the beginning of the fishing year. Otherwise 2001 management measures will continue to apply.

For example, under 2001 management in the Fort Bragg area a troll fishery in May would open, which would not be open under 2002 management regulations because the impacts on OCN coho would be too high. In other cases, areas scheduled to open early in the 2002 season would remain closed under 2001 management, thus foreclosing the opportunity to harvest some stocks that are available for harvest this year. In 2001, the recreational fishery north of Cape Falcon did not open until July 1. Under 2002 regulations the recreational fishery would open on May 25. As a result, using the 2001 regulations would preclude harvest opportunity for chinook that would not be recovered later because of conservation constraints for coho.

Overall, the annual population dynamics of the various salmon stocks cause managers to vary the season structure of the various west coast area fisheries to both protect weaker stocks and give fishers access to stronger salmon stocks, particularly hatchery produced fish. Failure to implement these measures immediately could compromise the status of certain stocks and negatively impact international, state, and tribal salmon fisheries,

thereby undermining the purposes of this agency action. Based upon the above-described need to have these measures effective on May 1 and the fact that there is limited time available to implement these new measures after the final Council meeting in April and before the commencement of the ocean salmon fishing year on May 1, NMFS has concluded it is impracticable to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The provisions of 50 CFR 660.411 state that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after date of publication in the **Federal Register**. NMFS will receive public comments on this action for 15 days after the date of publication of this action in the **Federal Register**.

The AA also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this rule. As previously discussed, these measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. If these measures are not in place on May 1, the previous year's management measures will continue to apply. Failure to implement these measures immediately could compromise the status of certain stocks and negatively impact international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

To enhance notification of the fishing industry of these new measures, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and by U.S. Coast Guard Notice to Mariners Broadcast. NMFS is also advising the States of Washington, Oregon, and California on the new management measures. These states announce the seasons for applicable state and Federal fisheries through their own public notification systems.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by OMB under control number 0648–0433. The public reporting burden for providing notifications if landing area restrictions cannot be met, or to obtain temporary mooring in Brookings, OR, is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any 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 control number.

Since 1989, NMFS has listed 16 ESUs of salmon on the West Coast. As the listings have occurred, NMFS has conducted formal ESA section 7 consultations (Table 1) and issued BOs that consider the impacts to listed salmon species resulting from proposed implementation of the Salmon FMP, or in some cases, from proposed implementation of the annual management measures.

TABLE 1.—NMFS' BIOLOGICAL OPINIONS AND SECTION 4(D) DETERMINATIONS RELATED TO OCEAN FISHERIES IMPLEMENTED UNDER THE SALMON FMP AND DURATION OF THE PROPOSED ACTION COVERED BY EACH

Date	ESU covered and effective period
March 8, 1996	Snake River chinook and sockeye (until reinitiated).
April 28, 1999	Oregon coast coho, S. Oregon/N. California coast coho, Central California coast coho (until reinitiated).
April 28, 2000	Central Valley spring chinook and California coast chinook (until reinitiated).
April 27, 2001 [4(d)], Sept. 14, 2001 (BO)	Puget Sound chinook and Hood Canal summer chum 4(d) limit & associated biological opinion (2 years).
April 30, 2001	Lower Columbia River chinook, Upper Willamette chinook, and Upper Columbia spring chinook (until reinitiated).
April 29, 2002	Sacramento River winter chinook (2 years).

Associated with the BOs are incidental take statements that specify the expected level of take. If the fisheries are conducted in accordance with the statement's terms and conditions the take is exempted from the section 9 prohibitions of the ESA. Some of the BOs have concluded that implementation of the Salmon FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other BOs have found that implementation of the Salmon FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. NMFS recently completed an additional BO regarding Sacramento River winter chinook for the 2002 and 2003 seasons.

In a March 8, 2002, letter to the Council, NMFS provided the Council with ESA consultation standards and guidance for the management of stocks listed under the ESA, and in anticipation of the BO that was being prepared for the 2002 management season for Sacramento River winter chinook.

Proposed fisheries affecting Puget Sound chinook and the Hood Canal summer chum were considered under provisions of the 4(d) rule. NMFS has determined that the Puget Sound chinook and Hood Canal summer chum RMPs are consistent with the ESA section 4(d) rule, and that the 2002 ocean and inside fisheries are consistent with the RMPs. In addition, the 2002 and pre-May 2003 management measures are consistent with the standards set to avoid jeopardy in the RMPs and associated biological opinion.

The Council's recommended management measures are consistent with the BOs that find no jeopardy, the reasonable and prudent alternatives in the jeopardy BOs, and the terms of the State and Tribal RMPs.

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

Dated: May 1, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 02–11219 Filed 5–1–02; 5:02 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 67, No. 88
Tuesday, May 7, 2002

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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–45854; File No. S7–14–02]

RIN 3235–AI49

Assessments on Security Futures Transactions and Fees on Sales of Securities Resulting From Physical Settlement of Security Futures Pursuant to Section 31 of the Exchange Act

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing to clarify how to calculate assessments that are required to be paid by national securities exchanges and national securities associations pursuant to Section 31(d) of the Securities Exchange Act of 1934 (''Exchange Act'') for security futures transactions. In addition, the Commission is proposing guidance on how to calculate fees that are required to be paid by national securities exchanges and national securities associations pursuant to Sections 31(b) and (c) of the Exchange Act, respectively, for sales of securities that result from the physical settlement of security futures.

DATES: Comments should be submitted on or before June 6, 2002.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–14–02; this file number should be included on the subject line if E-mail is used. Comment letters will be available for inspection and copying in the Commission's Public Reference Room at the same address. Electronically submitted comment letters will be posted on the Commission's Internet web site (*http://www.sec.gov).* Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submissions. Submit only information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Kelly Riley, Senior Special Counsel, at (202) 942–0752, Susie Cho, Special Counsel, at (202) 942–0748, and Geoffrey Pemble, Attorney, at (202) 942–0757, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW, Washington DC 20549–1001.

SUPPLEMENTARY INFORMATION:

I. Background

Section 31 of the Exchange Act [1] requires each national securities exchange and each national securities association to pay assessments and fees based on transactions in or sales of certain securities. The Commission proposes to amend Rule 31–1 [2] to clarify how national securities exchanges and national securities associations should calculate: (1) Assessments for security futures transactions required to be paid pursuant to Section 31(d) of the Exchange Act [3] and (2) fees for sales of securities resulting from physical settlement of security futures required to be paid pursuant to either Section 31(b) or (c) of the Exchange Act.

II. Proposal and Discussion

A. Assessments Under Section 31(d) of the Exchange Act

Section 31(d) of the Exchange Act provides that each national securities exchange and each national securities association shall pay an assessment ''for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery) on a security future traded on such national securities exchange or by or through a member of such association otherwise than on a national securities exchange.'' [4] The Commission believes that there are two issues that need to be clarified with regard to the application of Section 31(d): (1) the meaning of ''round turn'' and (2) the unit of a ''transaction'' on which the assessment is based. These issues are discussed below.

1. Meaning of ''Round Turn''

Section 31(d) clarifies that a ''round turn'' transaction on a security future is ''treated as including one purchase and one sale'' of a contract for future delivery. This language can be interpreted to mean that a round turn transaction is a completed trade involving the simultaneous purchase and sale of a contract for future delivery by the two parties to the trade. From the perspective of an exchange or association, there is, in fact, one purchase and one sale of a contract for future delivery in such a trade. As such, this interpretation is consistent with the fact that it is the obligation of an exchange or association to pay an assessment on a round turn transaction.

An alternative interpretation would treat a round turn transaction as a purchase and subsequent liquidating sale, or a sale followed by a subsequent covering purchase, of a contract for future delivery by a single market participant. If this market participant-based interpretation of ''round turn'' were used to determine when an assessment is to be paid by an exchange or association under Section 31(d), the exchange or association would need to track buy and sell transactions by individual market participants. Such tracking could be very difficult. For example, a market participant could open a large position on one day and then liquidate that position over several subsequent days.

The ability to track the opening and closing of positions by individual market participants could be further complicated if, as is expected, some security futures trade on more than one market. That is, a round turn transaction under the alternative interpretation could involve *two* markets, if the purchase and sale were effected in different markets, and it would not be

[1] 15 U.S.C. 78ee.

[2] 17 CFR 240.31–1.

[3] Earlier this year, the Commission exempted futures on narrow-based security indexes from the assessment and fee requirements of Section 31 of the Exchange Act. See Securities Exchange Act Release No. 45371 (January 31, 2002), 67 FR 5199 (February 5, 2002). Accordingly, assessments under Section 31(d) of the Exchange Act are required only for transactions in security futures on single securities.

[4] 15 U.S.C. 78ee(d). For fiscal year 2002, the assessment is $0.009 for each round turn transaction on a security future. For fiscal year 2007 and each succeeding fiscal year, such assessment shall be equal to $0.0042 for each round turn transaction.

clear if either or both were responsible for paying a Section 31(d) assessment on the transaction. The alternative interpretation of ''round turn,'' therefore, could create difficulties under Section 31(d) because that section appears to require only *one* market (an exchange or association) to pay the assessment on a round turn transaction.

The Commission believes that it is consistent with the intent and language of the Section 31(d) to view a round turn transaction as a completed trade involving the simultaneous purchase and sale of a contract for future delivery by the two parties to the trade. This interpretation is consistent with the fact that it is the obligation of an exchange or association to pay the assessment on the round turn transaction, and the fact that the section appears to impose an obligation on only one market. Interpreting the term ''round turn'' in this manner for purposes of Section 31(d) also simplifies the calculation of assessments on such transactions.

The Commission expects that the total assessments paid under this interpretation would be virtually identical to the total assessments paid under the alternative interpretation because most market participants are expected to enter into offsetting transactions before a security future settles. In any event, the Commission seeks comment on this interpretation of the term ''round turn'' for purposes of Section 31(d).

2. Meaning of ''Transaction''

Exchanges and associations must pay Section 31(d) assessments for each ''round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery).'' The parenthetical makes clear that the assessment is applied on each purchase and sale of each *contract* for future delivery. Thus, the total Section 31 assessment an exchange or association must pay to the Commission will be the amount of the assessment—which is currently $0.009—multiplied by the number of contracts traded on such exchange or by or through a member of such association otherwise than on an exchange. The Commission proposes to amend the Preliminary Note to Rule 31–1 to establish this method of calculating the Section 31(d) assessment. The Commission seeks comment, however, on the meaning of ''transaction'' and the appropriate method for calculating the Section 31(d) assessment on such transaction.

B. Fees Under Sections 31(b) and (c) of the Exchange Act

In addition to the assessments paid by exchanges and associations pursuant to Section 31(d) of the Exchange Act, Section 31(b) of the Exchange Act requires each national securities exchange to pay a fee based on the aggregate dollar amount of sales of securities transacted on such exchange. Similarly, Section 31(c) of the Exchange Act requires each national securities association to pay a fee based on the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange.[5] Because at physical settlement of a security future a sale of the underlying security or securities occurs, each national securities exchange or national securities association is required to pay a fee to the Commission based on the dollar amount of such sale. Thus, as in the exercise of an option,[6] the fees that are required pursuant to either Section 31(b) or Section 31(c) of the Exchange Act are only payable to the Commission if a security future is held until settlement and settlement results in the physical delivery of the underlying security or securities. Such physical delivery occurs because a holder of the short position in a security future is required pursuant to the terms of the contract to sell the underlying security or securities to the holder of the long position in the security future. Security futures that are cash-settled do not result in the sale of the underlying security or securities and, therefore, do not result in a fee being owed by an exchange or association to the Commission pursuant to Sections (b) or (c) 31 of the Exchange Act.

The Commission proposes to amend the Preliminary Note to Rule 31–1 to clarify that the aggregate dollar amount of sales of securities resulting from the physical settlement of a security future should be calculated based on the price at which the security future was sold by the market participant effecting delivery of the underlying security upon settlement. The Commission, however, seeks comment on whether this is the appropriate price for determining the aggregate dollar amount of sale.

The Commission also proposes to amend the Preliminary Note to Rule 31–1 to clarify that the obligation to pay a Section 31(b) or (c) fee on a sale of a security underlying a physically-settled security future does not accrue until the time that physical settlement occurs. Because, however, one way to view a future is a sale of the underlying instrument at the time of the future transaction with a delayed settlement, the Commission requests comment on whether the obligation to pay a Section 31(b) or (c) fee should accrue at any time other than the actual settlement date.

Finally, the Commission proposes to amend the Preliminary Note to Rule 31–1 to provide that The Options Clearing Corporation (''OCC'') may pay Section 31 assessments on round turn transactions on security futures and fees for sales of securities that result from the physical settlement of security futures on behalf of national securities exchanges and national securities associations. This provision would permit the OCC to serve the same role it currently does in paying Section 31 fees on options transactions on behalf of the options exchanges. The Commission seeks comment on whether any other registered entity should be permitted to pay the Section 31 assessments and fees due to the Commission on behalf of any national securities exchange or national securities association.

The Commission reminds national securities exchanges and national securities associations that the obligation to pay the Section 31(d) assessment on a security futures transaction rests with such exchanges and associations. If a national securities exchange or national securities association intends to levy charges upon its members to cover the Section 31(d) assessments for security futures transactions, such exchange or association would need to adopt rules requiring its members to pay such assessments.[7] The national securities exchanges and national securities associations also may want to amend their rules that charge their members fees to cover the fees owed by them under Sections 31(b) and (c) of the Exchange Act to clarify the application

[5] Sections 31(b) and (c) of the Exchange Act set forth initial rates of $15 per $1,000,000. The Commission, however, is required to make adjustments to these fee rates pursuant to Section 31(j) of the Exchange Act. *See* Securities Exchange Act Release No. 45842 (April 29, 2002) Order making fiscal 2003 annual adjustments to the fee rates applicable under Section 6(b) of the Securities Act of 1933, and Sections 13(e), 14(g), 31(b) and 31(c) of the Exchange Act).

[6] Section 31 fees that are paid upon an options exercise are paid only on options that are physically-settled, not options that are cash-settled, because, upon exercise, physically-settled options result in the actual sale and delivery of the underlying securities.

[7] Currently, national securities exchanges and the National Association of Securities Dealers (''NASD'') charge their members fees to cover the fees owed by them to the Commission under Sections 31(b) and (c) of the Exchange Act. *See e.g.,* Schedule A to the NASD By-Laws, Section 8; New York Stock Exchange Rule 440H.

of such fees to sales of securities resulting from the physical settlement of security futures. Of course, new exchanges would need to adopt rules to impose assessments and fees on their members to cover their obligations under Section 31.[8]

III. Paperwork Reduction Act

The Paperwork Reduction Act is not applicable to the proposed amendments because they do not impose any collection of information requirements that would require the approval of the Office of Management and Budget.

IV. Costs and Benefits of Proposed Amendments to Rule 31–1

The Commission is considering the costs and benefits of its amendments to Rule 31–1 and requests comment on all aspects of this cost-benefit analysis, including identification of any additional costs or benefits of the proposed amendments to Rule 31–1. The Commission encourages commenters to identify, discuss, analyze, and supply relevant data concerning the costs and benefits of the proposed rule.

A. Costs

The proposed amendments to Rule 31–1 are for the purpose of providing guidance on how Section 31 assessments and fees are to be calculated for transactions in security futures and sales of securities resulting from physical settlement of security futures. Specifically, the amendments are intended to clarify: (1) the method by which assessments required pursuant to Section 31(d) of the Exchange Act are calculated for round turn transactions on security futures traded on national securities exchanges or by members of national securities associations; and (2) the manner in which fees required pursuant to Sections 31(b) and (c) of the Exchange Act are calculated for sales of securities resulting from physical settlement of security futures. Accordingly, because the proposed amendments to Rule 31–1 do not give rise to additional obligations on national securities exchanges, associations, or other market participants, but rather merely provide guidance on complying with existing statutory obligations, the Commission preliminarily believes that there would be no costs imposed on market participants by the proposed amendment to the rule.

B. Benefits

The Commission preliminarily believes that its proposed amendments to Rule 31–1 would benefit exchanges and associations by providing clarification on the assessments and fees payable under Sections 31(b), (c) and (d) of the Exchange Act. Although these sections of the Exchange Act set forth generally the obligations of national securities exchanges and national securities associations to pay assessments and fees on security futures transactions and sales of securities resulting from physical settlement of such futures, the Commission has concluded that guidance is necessary to clarify the mechanics of the assessment and fee calculation and collection process for security futures. The Commission's guidance in the proposed amendments to Rule 31–1 would remove any potential ambiguity in the statute about, for example, the meaning of ''round turn transaction'' and the price on which fees for sales of securities that result from the physical settlement of security futures will be based.

V. Consideration of Burden on Competition and Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act requires the Commission, when adopting rules under the Exchange Act, to consider the impact of such rules on competition. [9] In addition, Section 3(f) of the Exchange Act requires the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation.[10]

The Commission has considered the proposed rule in light of these standards and preliminarily believes that the proposed rule will not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As noted above, in amending Rule 31–1 the Commission is merely providing guidance in the rule to clarify recent amendments to Section 31 of the Exchange Act. Likewise, the Commission preliminarily believes that the proposed rule will not have an impact on capital formation. To the extent the proposed rule reduces any ambiguity regarding the application of Section 31 to security futures transactions and the physical settlement of security futures, the proposed rule promotes efficiency. The Commission requests comment on the effects of the proposed rules on competition, efficiency, and capital formation.

VI. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act [11] requires the Commission to undertake an initial regulatory flexibility analysis of the proposed rule's impact on small entities unless the Chairman certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[12] The proposed amendments to Rule 31–1 under the Exchange Act would apply to national securities exchanges and national securities associations that are required under the Exchange Act to pay fees and assessments on sales of securities and security futures transactions. The Commission believes that there could be seven national securities exchanges and one national securities association that would be subject to the proposed rule, none of which is a small entity.[13] The Chairman has certified that the proposed rule would not have a significant economic impact on a substantial number of small entities. A copy of the certification is attached as Appendix A.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission also is requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commentators should provide empirical data to support their views.

VII. Statutory Authority

The Commission is proposing amendments to Rule 31–1 under the Exchange Act pursuant to its authority under Exchange Act Sections 3(b), 23(a), and 31.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

For the reasons set out in the preamble, the Commission proposes to

[8] National securities exchanges registered under Section 6(g) of the Exchange Act would not be required to file such rules with the Commission. *See* Exchange Act Section 6(g)(4)(B), 15 U.S.C. 78f(g)(4)(B).

[9] 15 U.S.C. 78w(a)(2).

[10] 15 U.S.C. 78c(f).

[11] 5 U.S.C. 603(a).

[12] 5 U.S.C. 605(b).

[13] Paragraph (e) of Exchange Act Rule 0–10 provides that the term ''small entity,'' when referring to an exchange, means any exchange that has been exempted from the reporting requirements of 17 CFR 240.11Aa3–1 and is not affiliated with any person that is not a small entity. Under this standard, none of the exchanges affected by the proposed rule is a small entity. Similarly, the national securities associations affected by the proposed rule are not small entities as defined by 13 CFR 121.201.

amend Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.31–1 is proposed to be amended by removing the Preliminary Note and adding Preliminary Notes 1 and 2 and introductory text to read as follows:

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary Notes

1. The section 31 fee for options transactions occurring on a national securities exchange, or transactions in options subject to prompt last sale reporting occurring otherwise than on an exchange (with the exception of sales of options on securities indexes) is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option. In the event of the exercise of an option, whether such option is traded on an exchange or otherwise, a section 31 fee is to be paid by the exchange or the national securities association itself, or The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the exercise price of the option.

2. The section 31(d) assessment on a round turn transaction on a security future traded on a national securities exchange, or by or through a member of a national securities association otherwise than on a national securities exchange, is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such assessment is to be computed on the basis of the number of contracts of sale for future delivery traded on such exchange or by or through any member of such association otherwise than on an exchange. In the event of the physical settlement of a security future, a section 31 fee is to be paid by the exchange on which the round turn transaction on the security future was traded, or, if the round turn transaction on the security future was traded by or through a member of a national securities association otherwise than on a national securities exchange, by the association, or by The Options Clearing Corporation on behalf of such exchange or association. Such fee, whether paid under section 31(b) or section 31(c), is to be computed on the basis of the sale price of the security future, although the obligation to pay such fee does not accrue until the time that physical delivery occurs.

The following shall be exempt from section 31 of the Act:

* * * * *

By the Commission.

Dated: May 1, 2002.

Jill M. Peterson,

Assistant Secretary.

Note: This Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A

Regulatory Flexibility Act Certification

I, Harvey L. Pitt, Chairman of the Securities and Exchange Commission (''SEC''), on information and belief, hereby certify, pursuant to 5 U.S.C. § 605(b), that the proposed amendment to Rule 31–1 under the Securities Exchange Act of 1934 (''Exchange Act'') would not, if adopted, have a significant economic impact on a substantial number of small entities. Section 31 of the Exchange Act requires each national securities exchange and each national securities association to pay fees and assessments to the Commission based on sales of or transactions in certain securities. Section 31 of the Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (''CFMA'') to impose assessments on transactions in security futures.

The proposed amendment to Rule 31–1 would clarify the method by which assessments are to be calculated for transactions in security futures and fees are to be calculated for sales of securities resulting from the physical settlement of security futures. Only national securities exchanges and national securities associations are required to pay Section 31 assessments for security futures transactions and fees for sales of securities resulting from the physical settlement of security futures. None of these exchanges or associations is a small entity for purposes of the Regulatory Flexibility Act. Accordingly, the proposed amendment to Rule 31–1 would not have a significant economic impact on a substantial number of small entities.

Dated: April 30, 2002.

Harvey L. Pitt,

Chairman.

[FR Doc. 02–11267 Filed 5–6–02; 8:45 am]

BILLING CODE 8010–01–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 203

Registration of U.S. Private Voluntary Organizations for Foreign Aid Programs

AGENCY: Agency for International Development (USAID).

ACTION: Proposed rule.

SUMMARY: USAID proposes to amend its regulations by creating a less cumbersome and more streamlined registration process for private voluntary organizations (PVOs).

DATES: Please submit comments on or before July 8, 2002.

ADDRESSES: You may mail written comments concerning the proposed changes to Mary Newton, Registrar, USAID, Office of Private and Voluntary Cooperation, 1300 Pennsylvania Avenue, NW, Washington, DC, 20523–7600. You may submit comments electronically to *mnewton@usaid.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Newton, Registrar, Office of Private and Voluntary Cooperation, telephone 202–712–4747; telefax (202) 216–3041; e-mail *mnewton@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Explanation of Proposed Changes

Following an extensive review of the registration process of U.S. private voluntary organizations (PVOs), we propose to amend the regulations to make the registration process less cumbersome and more streamlined for both applicants and the Agency. The major changes are as follows:

1. Defined the term ''U.S. PVO'' in section 203.2 so that an organization can determine if it needs to be registered. An organization that meets the definition must be registered to be eligible for a subvention or to receive a USAID grant or cooperative agreement. If an organization does not meet the definition, it is not considered a PVO for purposes of registration.

2. Combined two conditions regarding tax exemption and voluntary nature into one condition.

3. Deleted references to other types of nonprofit organizations. Only 501(c)(3) organizations are considered PVOs. Organizations registered before these

changes are implemented will remain in the USAID Registry of PVOs.

4. Added requirement that the organization is incorporated at least 18 months before applying.

5. Separated conditions from documentation requirements for easier reference.

6. Reduced the number of documents required for application from 18 to 7 and for annual submission from 6 to 4.

7. Added Condition No. 8 on U.S. national security issues.

B. Regulatory Analysis

1. *Executive Order 12866.* USAID has determined that this regulation is not a significant regulatory action as defined in Executive Order 12866 and, accordingly, this regulation has not been reviewed by the Office of Management and Budget.

2. *Regulatory Flexibility Act.* It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

3. *Executive Order 13132.* This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

4. *Unfunded Mandates Reform Act of 1995.* This regulation will not 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, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

5. *Small Business Regulatory Enforcement Fairness Act of 1996.* This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic or export markets.

6. *Executive Order 12988—Civil Justice Reform.* USAID has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, this rule meets the applicable standards in section 3 to mitigate litigation, eliminate ambiguity and reduce burden.

7. *Paperwork Reduction Act.* This rule does 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.*). We are in the process of obtaining the necessary approvals.

List of Subjects in 22 CFR Part 203

Foreign aid, Nonprofit organizations.

Accordingly, 22 CFR part 203 is proposed to be revised to read as follows:

PART 203—REGISTRATION OF U.S. PRIVATE VOLUNTARY ORGANIZATIONS (PVOs)

Sec.

203.1 Purpose.
203.2 Definitions.
203.3 Conditions of registration.
203.4 Documentation requirements for initial registration.
203.5 Annual documentation requirements.
203.6 Denial of registration, reconsideration and resubmission.
203.7 Termination of registration.
203.8 Access to records and communications.
208.9 Delegation of authority.

Authority: 22 U.S.C. 2381.

§ 203.1 Purpose.

(a) USAID registers U.S. PVOs for the following purposes:

(1) Registration is a statutory condition of eligibility for U.S. PVOs for subventions.

(2) Registration is a condition of eligibility for U.S PVOs for USAID grants and cooperative agreements.

(3) Registration provides USAID with information for computing the amount of USAID funding made available to U.S PVOs.

(4) Registration provides USAID with the information necessary to determine whether a PVO meets the statutory ''20 percent privateness test.'' The statue requires that a U.S. PVO must obtain at least 20 percent of its financial support (cash) for its international activities from sources other than the U.S. Government to receive certain USAID grants and cooperative agreements. The privateness test is an eligibility criterion for PVO programs; it is not a condition for registration.

(b) It is not the purpose of registration to allow registered U.S. PVOs to make, or enable to be made, any representation to the public concerning the meaning of being registered with USAID.

(c) Registration does not bring an organization within the Ambassador's authority and responsibility for the security of U.S. Government operations and personnel abroad.

§ 203.2 Definitions.

As used in this part:

(a) *Annual report* means a yearly document that describes the PVO's program activities conducted during the same period as the audited financial statement.

(b) *FAA* means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151, *et seq.*

(c) *U. S. general public* means U.S. citizens and U.S. nongovernmental organizations, e.g., private citizens, groups, foundations and corporations. U.S. general public does not include government agencies in the U.S. or abroad, or international organizations such as the United Nations, or non-U.S. citizens or institutions.

(d) *Headquarters* means the principal executive office where legal, accounting, and administrative information may be accessed in the daily course of conducting business.

(e) *Public Law 480* means the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. 1691 *et seq.*

(f) *Supporting Services* mean the total of general and administration expenses plus fundraising and promotion expenses.

(g) *Subventions* mean the payment of transportation charges under section 123(b) of the FAA, 22 U.S.C. 2151u(b); the sale of the services or commodities, e.g., excess property, under section 607(a) of the FAA, 22 U.S.C. 2357(a); and the furnishing of agricultural commodities under section 202 of Public Law 480, 7 U.S.C. 1722.

(h) *USAID* means U.S. Agency for International Development.

(i) *U.S. PVO* means a private voluntary organization that

(1) Is exempt from Federal income taxes under Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3));

(2) Works in, or intends to work in, foreign development activities;

(3) Receives some portion of its annual support from the private sector;

(4) Receives voluntary contributions of money from the U.S. general public; and

(5) Is not, for registration purposes, a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or

scientific activities, church, or organization engaged exclusively in religious activities.

§ 203.3 Conditions of registration.

There are eight conditions of registration '' the first four conditions define a PVO, and the last four conditions establish standards by which the PVO is evaluated. An applicant shall be registered with USAID as a U.S. PVO if USAID finds that the applicant has satisfied the following conditions:

(a) *Condition No. 1 (U.S.-based).* Is U.S.-based in that it:

(1) Is organized under the laws of the United States;

(2) Has its headquarters in the United States; and

(3) Has been incorporated for not less than 18 months.

(b) *Condition No. 2 (Private).* Is not a governmental entity.

(c) *Condition No. 3 (Voluntary).* Is a voluntary organization in that it:

(1) Is a public charity and has tax exemption under section 501(c)(3) of the Internal Revenue Code; and

(2) Solicits and receives cash contributions from the U.S. general public.

(d) *Condition No. 4 (Overseas Activities).* Conducts, or anticipates conducting, overseas activities that are consistent with the general purposes of the Foreign Assistance Act or Public Law 480, 7 U.S.C. 1691.

(e) *Condition No. 5 (Financial Viability).* That it:

(1) Accounts for its funds in accordance with generally accepted accounting principles (GAAP);

(2) Has a sound financial position; and

(3) Makes its financial statements available to the public upon request.

(f) *Condition No. 6 (Board of Directors).* Has a board of directors:

(1) That meets at least annually;

(2) Whose members serve without compensation or honorarium for such services; and

(3) Whose majority is not composed of the PVO's officers or staff members.

(g) *Condition No. 7 (Program and Supporting Services).* That it:

(1) Expends and distributes its cash and gifts in-kind in accordance with the annual report of program activities; and

(2) Does not expend more than 40 percent of total expenses on supporting services.

(h) *Condition No. 8 (General Eligibility).* It is not:

(1) Suspended or debarred by an agency of the United States Government;

(2) Designated as a foreign terrorist organization by the Secretary of State pursuant to section 219 of the Immigration and Nationality Act, 8 U.S.C. 1189, as amended; or

(3) The subject of a decision by the Department of State to the effect that registration or a financial relationship between USAID and the organization is contrary to the national defense, national security, or foreign policy interests of the United States.

§ 203.4 Documentation requirements for initial registration.

(a) In order for USAID to determine if the applicant meets the conditions of registration, an applicant shall submit in duplicate to USAID, Office of Private and Voluntary Cooperation, 1300 Pennsylvania Avenue, NW, Washington, D.C., 20523–7600, the following documents with a cover letter stating the reason the organization is applying for registration, its agreement to the conditions of registration, and its agreement to provide such other information as USAID may reasonably require to determine that the applicant meets the conditions of registration. This information is required for the purpose of determining that the applicant meets the conditions of registration:

(1) Articles of incorporation or charter on state letterhead with state seal and authorizing state official's signature;

(2) Bylaws or other documents establishing corporate structure;

(3) IRS Form 990 or 990–PF (for availability see 26 CFR 601.602) and a copy of IRS letter of tax exemption;

(4) Audited financial statements (for the most recent fiscal year) and an Office of Management and Budget (OMB) Circular A–133 (for availability see 5 CFR 1310.3) audit, if applicable, prepared on an accrual basis in accordance with generally accepted accounting principles (GAAP) certified by an independent certified public accountant (CPA);

(5) Annual report or similar document which describes overseas program activities and lists all board members;

(6) USAID Form 1550–2 for the same reporting period as the financial statements; and

(7) Classification list of activity sectors and countries.

(b) In addition, each applicant shall submit such other information as USAID may reasonably require to determine whether the organization meets the conditions of registration.

(c) USAID may revise this list of documents from time to time.

(d) Other USAID officials may request the same or similar information at a later date for purposes of determining the PVO's eligibility for a particular grant of cooperative agreement.

§ 203.5 Annual documentation requirements.

(a) In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of its fiscal year, the following:

(1) Audited financial statements for the registrant's most recent fiscal year and an OMB Circular A–133 audit, if applicable, prepared on an accrual basis in accordance with GAAP by an independent CPA;

(2) Annual report or similar document describing overseas program activities and listing all board members;

(3) USAID Form 1550–2 for the same reporting period as the financial statements; and

(4) Classification listing of activity sectors and countries.

(b) PVOs also must submit any amendments, if applicable, to their articles of incorporation, charter or bylaws and any changes in the organization's tax-exempt status.

(c) In addition, each registrant shall submit such other information as USAID may reasonably require to determine that the organization continues to meet the conditions of registration.

(d) USAID may revise this list of documents from time to time.

§ 203.6 Denial of registration, reconsideration and resubmission.

(a) *Notification of denial of registration.* If USAID decides to deny an applicant registration, USAID will inform the applicant in writing of the denial with a specific statement of those conditions and documentation requirements of registration that the applicant has failed to satisfy.

(b) *Reconsideration.* An applicant may, after receipt of a notification of denial of registration, resubmit its application for reconsideration within the timeframe as designated by USAID. USAID will inform, in writing, the applicant resubmitting its application of USAID's decision upon resubmission.

(c) *Resubmission.* An applicant may at any time resubmit a new application for registration.

§ 203.7 Termination of registration.

(a) USAID may terminate registration for any of the following reasons:

(1) Relinquished voluntarily by the registrant upon written notice to USAID;

(2) Terminated by USAID if registrant does not submit annual documentation within 180 days after its fiscal year end;

(3) Terminated by USAID if registrant has no overseas expenditures within three consecutive years;

(4) Terminated by USAID for failure of the registrant to comply with conditions of registration;

(5) Terminated by USAID if registrant uses promotional material or advertisement suggesting the fact of registration is an endorsement; or

(6) Terminated by USAID if registrant refuses to transfer to USAID any records, documents, or information that are referred to in this regulation and are within registrant's control, or copies of such records or documents, within a reasonable time after requested by USAID.

(b) Termination by USAID shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for the registrant to file a written statement within 30 days of receipt of the written notice as to why its registration should not be terminated. USAID will inform, in writing, registrant requesting such reconsideration of USAID's decision. In addition, USAID may, at its own discretion, reconsider a termination of registration at any time.

§ 203.8 Access to records and communications.

(a) All records, reports, and other documents that are made available to USAID pursuant to this part shall be made available for public inspection and copying pursuant to the Freedom of Information Act and other applicable law.

(b) All communications to applicants and registrants by USAID are made to the organization's principal executive office, not the organization's registered office or other address.

§ 203.9 Delegation of authority.

The Assistant Administrator for the Bureau for Democracy, Conflict and Humanitarian Assistance is delegated by the Administrator the authority to administer the registration process, including the authority to waive, withdraw, or amend any or all of the provisions of the regulations in this part.

Dated: April 30, 2002.

Karl Schwartz,

Chief, Information and Program Support Division, Office of Private and Voluntary Cooperation, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. 02–11243 Filed 5–6–02; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG–142686–01]

RIN 1545–BA26

Application of the Federal Insurance Contributions Act, Federal Unemployment Tax Act, and Collection of Income Tax at Source to Statutory Stock Options; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of time of public hearing.

SUMMARY: This document contains a notice of change of time of public hearing on proposed regulations relating to incentive stock options and options granted under employee stock purchase plan.

DATES: The time of the public hearing originally scheduled for Thursday, May 14, 2002, beginning at 10 a.m. has been changed to begin at 9 a.m.

ADDRESSES: The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. In addition, all visitors must present photo identification to enter the building.

FOR FURTHER INFORMATION CONTACT: Concerning the hearing, and/or to be placed on the building access list to attend the hearing Treena Garrett, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (REG–142686–01) that was published in the **Federal Register** on November 14, 2001 (65 FR 57023).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 02–11311 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 2

RIN 0651–AB51

Revision of Patent and Trademark Fees for Fiscal Year 2003

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (referred to as ''we'', ''us'', or ''our'' in this notice) is proposing to adjust certain patent fee amounts and a trademark fee amount to reflect fluctuations in the Consumer Price Index (CPI). Also, we are proposing to adjust, by a corresponding amount, a few patent fees that track the affected fees. The Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business.

DATES: Comments must be submitted on or before June 6, 2002.

ADDRESSES: Comments may be submitted by e-mail addressed to *matthew.lee@uspto.gov.* Comments may also be submitted by mail addressed to: Office of Finance, Crystal Park One, Suite 802, Washington, DC, 20231, or by fax to (703) 305–8007, marked to the attention of Matthew Lee.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by e-mail at *matthew.lee@uspto.gov,* by telephone at (703) 305–8051, or by fax at (703) 305–8007.

SUPPLEMENTARY INFORMATION: This proposed rule would adjust our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Public Law 106–113); and section 1113 of title 15, United States Code. This proposed rule would also adjust, by a corresponding amount, a few patent fees (37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)).

In addition to this proposed rule, we have also prepared another notice of proposed rulemaking, to seek comment on a $50 per-class surcharge on the trademark application fee and the fee for filing certain other trademark-related documents where: (1) A Trademark Electronic Application System (TEAS) form is available for that document and (2) the document is filed on paper. That notice of proposed rulemaking deals with the current trademark application fee, not the CPI adjusted fee, and proposes that the current fee of $325 be used for the filing of a TEAS application. A paper application filed under the same fee schedule would be $375.

Background

Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41, 119, 120, 132(b) and 376. For fees paid under 35 U.S.C. 41(a) and (b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

Section 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the CPI over the previous twelve months.

Section 41(d) of title 35, United States Code, authorizes the Director to establish fees for all other processing, services, or materials related to patents to recover the average cost of providing these services or materials, except for the fees for recording a document affecting title, for each photocopy, for each black and white copy of a patent, and for library services.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Director under section 41 may take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office.*

Section 1113 of title 15, United States Code, authorizes the Director to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for all other services and materials relating to trademarks and other marks.

Section 1113(a) of title 15, United States Code, allows trademark fees to be adjusted once each year to reflect, in the aggregate, any fluctuations during the preceding twelve months in the CPI.

Section 1113(a) also allows new trademark fee amounts to take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office.*

Fee Adjustment Level

The patent statutory fees established by 35 U.S.C. 41(a) and (b) are proposed to be adjusted on October 1, 2002, to reflect any fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI–U). The Office of Management and Budget has advised us that in calculating these fluctuations, we should use CPI–U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we base this proposed fee adjustment on the Administration's projected CPI–U for the twelve-month period ending September 30, 2002, which is 2.4 percent. Based on this projection, patent statutory fees are proposed to be adjusted by 2.4 percent. Before the final fee amounts are published, the fee amounts may be adjusted based on actual fluctuations in the CPI–U published by the Secretary of Labor.

Certain patent processing fees established under 35 U.S.C. 41(d), 119, 120, 132(b), 376, and Public Law 103–465 (the Uruguay Round Agreements Act) are proposed to be adjusted to reflect fluctuations in the CPI.

A trademark processing fee established under 15 U.S.C. 1113 is proposed to be adjusted to reflect fluctuations in the CPI.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded would be convenient to the user. Fees for other than a small entity of $100 or more were rounded to the nearest $10. Fees of less than $100 were rounded to an even number so that any comparable small entity fee would be a whole number.

General Procedures

Any fee amount that is paid on or after the effective date of the proposed fee increase would be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of § 1.8. Items for which a Certificate of Mailing or Transmission under § 1.8 are not authorized include, for example, for filing of Continued Prosecution Applications (CPAs) under § 1.53(d) and other national and international applications for patents. *See* 37 CFR 1.8(a)(2).

Under 37 CFR 1.10(a), any correspondence delivered by the ''Express Mail Post Office to Addressee'' service of the United States Postal Service (USPS) is considered filed or received in our office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the ''date-in'' on the ''Express Mail'' mailing label or other official USPS notation.

To ensure clarity in the implementation of the new fees, a discussion of specific sections is set forth below.

Discussion of Specific Rules

37 CFR 1.16 National Application Filing Fees

Section 1.16, paragraphs (a), (b), (d), and (f) through (i), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.17 Patent Application and Reexamination Processing Fees

Section 1.17, paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.18 Patent Post Allowance (Including Issue) Fees

Section 1.18, paragraphs (a) through (c), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.20 Post Issuance Fees

Section 1.20, paragraphs (e) through (g), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.492 National Stage Fees

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d), if revised as proposed, would adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 2.6 Trademark Fees

Section 2.6, paragraph (a)(1), if revised as proposed, would adjust the fee established therein to reflect fluctuations in the CPI.

Other Considerations

This proposed rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule does not contain

policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule change would not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees. We received roughly 98,000 patent applications (approximately 30 percent of total patent applications) last year from small entities. Since the average small entity fee would increase by less than $10.00, with a minimum increase of $1.00 and a maximum increase of $35.00, there will not be a significant economic impact on a substantial number of small entities due to this proposed rule change.

Lists of Subjects

37 CFR Part 1

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements, Small businesses.

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons set forth in the preamble, we are proposing to amend title 37 of the Code of Federal Regulations, Parts 1 and 2, as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1.The authority citation for 37 CFR Part 1 would continue to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Section 1.16 is proposed to be amended by revising paragraphs (a), (b), (d), and (f) through (i) to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design, or plant applications:

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a))—$43.00
By other than a small entity—$86.00

* * * * *

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a))—$145.00
By other than a small entity—$290.00

* * * * *

(f) Basic fee for filing each design application:

By a small entity (§ 1.27(a))—$170.00
By other than a small entity—$340.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.27(a))—$260.00
By other than a small entity—$520.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§ 1.27(a))—$43.00
By other than a small entity—$86.00

* * * * *

3. Section 1.17 is proposed to be amended by revising paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) * * *

(1) * * *

(2) For reply within second month:

By a small entity (§ 1.27(a))—$205.00
By other than a small entity—$410.00

(3) For reply within third month:

By a small entity (§ 1.27(a))—$470.00
By other than a small entity—$940.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a))—$735.00
By other than a small entity—$1,470.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a))—$1,000.00
By other than a small entity—$2,000.00

(b) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:

By a small entity (§ 1.27(a))—$165.00
By other than a small entity—$330.00

(c) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§ 1.27(a))—$165.00
By other than a small entity—$330.00

(d) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in an appeal under 35 U.S.C. 134:

By a small entity (§ 1.27(a)—$145.00
By other than a small entity—$290.00(e)

To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

* * * * *

(m) For filing a petition for revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a))—$655.00
By other than a small entity—$1,310.00

* * * * *

(r) For entry of a submission after final rejection under § 1.129(a):

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

(s) For each additional invention requested to be examined under § 1.129(b):

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78): $1,310.00.

4. Section 1.18 is proposed to be amended by revising paragraphs (a) through (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.27(a))—$655.00
By other than a small entity—$1,310.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.27(a))—$235.00
By other than a small entity—$470.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.27(a))—$315.00
By other than a small entity—$630.00

* * * * *

5. Section 1.20 is proposed to be amended by revising paragraphs (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

* * * * *

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.27(a))—$450.00
By other than a small entity—$900.00

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant:

By a small entity (§ 1.27(a))—$1,035.00
By other than a small entity—$2,070.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.27(a))—$1,585.00
By other than a small entity—$3,170.00

* * * * *

6. Section 1.492 is proposed to be amended by revising paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a))—$365.00
By other than a small entity—$730.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.27(a))—$380.00
By other than a small entity—$760.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a))—$530.00
By other than a small entity—$1,060.00

(4) * * *

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japan Patent Office:

By a small entity (§ 1.27(a))—$455.00
By other than a small entity—$910.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.27(a))—$43.00
By other than a small entity—$86.00

* * * * *

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.27(a))—$145.00
By other than a small entity—$290.00

* * * * *

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR Part 2 would continue to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

2. Section 2.6 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 2.6 Trademark fees.

* * * * *

(a) * * *

(1) For filing an application, per class—$340.00

* * * * *

Dated: May 1, 2002.

Jon W. Dudas,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 02–11270 Filed 5–6–02; 8:45 am]

BILLING CODE 3510–16–P 7

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 261–0337b; FRL–7171–4]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from adhesives. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 6, 2002.

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 document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

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

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

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (Air-4), U.S. Environmental Protection Agency, Region IX, (415) 947–4117.

SUPPLEMENTARY INFORMATION: This proposal addresses SJVUAPCD Rule 4653, Adhesives. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 29, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 02–11175 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–60–1–7551; FRL–7207–9]

Approval and Promulgation of Implementation Plans; Louisiana; Rescission of the Sections 182(f) and 182(b)(1) Exemptions to the Nitrogen Oxides (NO_X) Control Requirements for the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, we, the EPA, are proposing to rescind the nitrogen oxides (NO_X) exemptions for the Baton Rouge ozone nonattainment area. On January 26, 1996 (61 FR 2438), we granted an exemption under section 182(f) of the Clean Air Act (CAA) from the reasonably available control technology (RACT) and nonattainment new source review (NSR) requirements for major stationary sources of NO_X, as well as the vehicle inspection/maintenance (I/M) NO_X requirements and general conformity NO_X requirements. On February 27, 1996 (61 FR 7218), we also granted an exemption for the Baton Rouge ozone nonattainment area from the transportation conformity NO_X requirements. We based our approval of the exemptions on modeling showing that NO_X controls would not contribute to attainment of the national ambient air quality standard (NAAQS) for ozone. In granting the exemptions, EPA reserved the right to reverse the approval of the exemptions if subsequent modeling data demonstrated an ozone attainment benefit from NO_X emission controls. Photochemical modeling recently conducted for the Baton Rouge area State Implementation Plan (SIP) indicates that control of NO_X sources will help the area attain the NAAQS for ozone. The State of Louisiana has, therefore, requested that EPA rescind the NO_X exemption based on this new modeling. If EPA finalizes the rescissions, the State will be required to implement the NO_X requirements for RACT, NSR, vehicle I/M, and general and transportation conformity in the Baton Rouge area.

DATES: Comments must be received on or before June 6, 2002.

ADDRESSES: All comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733; Louisiana Department of Environmental Quality (LDEQ), 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691.

SUPPLEMENTARY INFORMATION: The use of ''we,'' ''us,'' or ''our'' in this document refers to EPA.

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I. What Action Is EPA Proposing to Take?

At the request of the State of Louisiana, we are proposing to rescind the sections 182(f) and 182(b)(1) exemptions from certain CAA NO_X requirements for the Baton Rouge ozone nonattainment area. Rescission of these NO_X exemptions would remove the Baton Rouge ozone nonattainment area from exempt status and the State would be required to immediately implement the Federal NO_X RACT, NSR, vehicle I/M, and general and transportation conformity requirements.

II. What Is a NO_X Exemption?

The CAA states, in section 182(f), that an exemption from NO_X controls may be given to an ozone nonattainment area if the Administrator determines that NO_X controls would not contribute to attainment of the ozone NAAQS. On November 17, 1994, Louisiana submitted a petition to the EPA requesting that the Baton Rouge serious ozone nonattainment area [1] be exempted from requirements to implement NO_X controls pursuant to section 182(f) of the CAA. The exemption request, which addressed NO_X RACT, NSR, vehicle I/M, general and transportation conformity requirements, was based on modeling demonstrating additional NO_X emission controls within the nonattainment area would not contribute to attainment of the ozone NAAQS.

In April 1995, EPA changed the procedural mechanism through which a NO_X exemption from the transportation conformity requirements would be granted.[2] Instead of a petition under section 182(f), transportation conformity NO_X exemptions for ozone nonattainment areas subject to section 182(b)(1) of the CAA (i.e., moderate and above areas) would need to be submitted as a SIP revision. The Baton Rouge ozone nonattainment area is classified as serious and, thus, is subject to section 182(b)(1). Accordingly, on July 25, 1995, the State of Louisiana submitted to EPA, pursuant to section 182(b)(1), a SIP revision requesting an exemption from the transportation conformity NO_X requirements. The State based the section 182(b)(1) exemption request on the same modeling relied on for the earlier section 182(f) exemption request.

We approved the sections 182(f) and 182(b)(1) exemptions on January 26, 1996 (61 FR 2438), and February 27, 1996 (61 FR 7218), respectively. In our **Federal Register** notices approving the exemptions, we reserved the right to reverse the approval of the exemptions if subsequent modeling data demonstrated an ozone attainment benefit from NO_X emission controls.

III. Why Is EPA Proposing To Take This Action?

We are proposing to take this action because the State has requested rescission of the NO_X waivers based on revised modeling, and we have evaluated the new modeling and find that it appears to demonstrate that NO_X controls will contribute to attaining the ozone NAAQS. Specifically, on September 24, 2001, the State of Louisiana submitted to EPA a request to rescind the section 182(f) NO_X exemption for the Baton Rouge ozone nonattainment area. The State based its request on photochemical modeling recently conducted for the Baton Rouge

[1] At the time, the Baton Rouge serious ozone nonattainment area consisted of six parishes: Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge. However, Pointe Coupee has since been redesignated to ozone attainment. See 61 FR 37833, dated July 22, 1996.

[2] For a detailed discussion of the basis for the procedural change, please reference EPA's October 6, 1995, proposed approval of the Baton Rouge transportation conformity NO_X exemption (60 FR 52348).

area demonstrating that NO_X reductions are needed in order for the area to attain the one-hour ozone standard. In addition, on December 31, 2001, the State submitted to EPA a revision to the Baton Rouge SIP requesting rescission of the transportation conformity NO_X exemption based on this photochemical modeling.

As stated previously, when we approved the sections 182(f) and 182(b)(1) NO_X exemptions, we reserved the right to reverse the approval of the exemptions if subsequent modeling data demonstrated an ozone attainment benefit from NO_X emission controls. Based on our preliminary review of the recently completed modeling, it appears that additional NO_X controls are now needed in order for the Baton Rouge area to attain the ozone standard.

IV. What Actions Has The State Taken?

The State has taken a number of actions aimed at NO_X control consistent with its revised modeling showing that NO_X reductions will contribute to achieving the ozone NAAQS.

Specifically, on December 20, 2001, the State of Louisiana adopted revisions to its NSR regulations to address the NO_X NSR requirements. See Louisiana Administrative Code (LAC) 33:III.504, ''Nonattainment New Source Review Procedures.'' The rule revisions were effective on that date. The NO_X NSR requirements apply to owners or operators planning to construct or modify a source, in the Baton Rouge serious ozone nonattainment area, that emits or has the potential to emit 50 tons per year or more of NO_X. The compliance date for the State's NO_X NSR rule is December 20, 2001.

In addition, on February 20, 2002, the State adopted NO_X control regulations. See LAC 33:III.Chapter 22, ''Control of Emissions of Nitrogen Oxides (NO_X).'' The rules were effective on that date. The regulations establish requirements for reducing emissions of NO_X from industrial sources in a nine-parish control region, which includes the five-parish Baton Rouge ozone nonattainment area (Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge Parishes), as well as East Feliciana, West Feliciana, St. Helena, and Pointe Coupee Parishes. Affected facilities include those with one or more affected point sources [3] that collectively emit, or have the potential to emit, fifty (50) tons per year or more of NO_X. The rules are intended not only to satisfy the Federal NO_X RACT requirements applicable to the Baton Rouge ozone nonattainment area, but are also a key component of a broader control strategy to bring the Baton Rouge area into compliance with the one-hour ozone standard. The State's NO_X control rules' final compliance date is as expeditious as possible and varies from source to source, but no compliance date is later than May 1, 2005.

Lastly, on December 31, 2001, the State submitted to EPA a revision to the vehicle I/M SIP for the Baton Rouge area to address the I/M NO_X requirements.

V. What Would Be the Effect of Rescinding the NO_X Exemptions on Conformity?

The NO_X exemptions for transportation and general conformity determinations would no longer apply after the effective date of a final rule. The implications of rescinding the transportation and general conformity NO_X exemptions are discussed below.

The section 182(b)(1) transportation conformity NO_X exemption waived the Federal transportation conformity rule's ''build-no build'' test for NO_X emissions. The ''build-no build'' test applies to ozone nonattainment areas without motor vehicle emissions budgets. See 40 CFR 93.119. However, on July 2, 1999 (64 FR 35930), EPA approved motor vehicle emissions budgets for VOC and NO_X as part of its approval of the 1999 Attainment Demonstration for the Baton Rouge ozone nonattainment area. Because the State of Louisiana now has established motor vehicle emission budgets for volatile organic compounds (VOC) and NO_X as part of its approved SIP, rescission of the transportation conformity NO_X exemption has no practical implications for the Baton Rouge ozone nonattainment area. If the section 182(b)(1) NO_X exemption is rescinded, the State of Louisiana would not need to revise its transportation conformity rules. See LAC 33:III, Chapter 14, Subchapter B, Section 1432, and 40 CFR 93.118 for more information.

The section 182(f) NO_X waiver exempted Federal projects from general conformity determinations with respect to NO_X. If the exemption is rescinded, Federal agencies making future general conformity determinations for Federal projects in the Baton Rouge area would now be subject to the NO_X requirements outlined in the State's general conformity rules. The State would not need to revise its general conformity rules if the section 182(f) NO_X waiver is rescinded. See LAC 33:III, Chapter 14, Subchapter A, and 40 CFR part 51 subpart W for more information.

Existing conformity determinations would not be affected by the rescission of the sections 182(f) and 182(b)(1) NO_X exemptions and will continue to be valid to the same extent as generally allowed under the rules; however, new conformity determinations will have to observe the NO_X requirements.

VI. What Would Be the Effect of Rescinding the Section 182(f) NO_X exemption on Vehicle I/M?

The vehicle I/M NO_X requirements would apply to the Baton Rouge ozone nonattainment area after the effective date of this rule. As stated previously, on December 31, 2001, the State submitted to EPA a revision to the vehicle I/M SIP for the Baton Rouge area to address the I/M NO_X requirements. The SIP includes a revised program design intended to meet the Federal low enhanced I/M performance standard for VOC and NO_X.[4] See 40 CFR 51.351.

VII. What Further Actions Would EPA Need To Take?

We will be reviewing the State's NO_X control regulations to ensure that they meet the requirements for NO_X RACT. We will also be reviewing the revised NSR regulations to ensure that they satisfy the Federal NO_X NSR requirements. We will be acting upon these regulations in separate rulemaking actions because they are elements of a broader SIP for the Baton Rouge ozone nonattainment area that was submitted to EPA on December 31, 2001. This SIP includes, among other things, the photochemical modeling on which the State's NO_X exemption rescission requests are based. We will be acting on this modeling—and other elements of this SIP submittal—in a separate rulemaking action.

In addition, we will be reviewing the revised vehicle I/M SIP submitted to EPA on December 31, 2001, to determine whether it meets the Federal I/M program requirements (including NO_X). We will act upon this SIP revision in a future rulemaking action on that subject.

VIII. Where Can I Get Background Information on the Exemptions?

As discussed above, the sections 182(f) and 182(b)(1) NO_X exemptions were approved on January 26, 1996 (61 FR 2438), and February 27, 1996 (61 FR

[3] Please see LAC 33:III.2201, ''Affected Facilities in the Greater Baton Rouge NO_X Control Area,'' for definitions, exemptions, etc.

[4] The new program design replaces the fuel inlet pressure test (which was not implemented) with on-board diagnostics. The existing anti-tampering check and gas cap pressure test are still applicable. See LAC 55:III.Chapter 8, ''Motor Vehicle Inspections.''

7218), respectively. We proposed approval of the sections 182(f) and 182(b)(1) NO_X exemptions on August 18, 1995 (60 FR 43100), and October 6, 1995 (60 FR 52349), respectively.

A copy of the recently completed modeling, NO_X control and NSR regulations, and I/M SIP revision that were submitted by the State to EPA are available from EPA and LDEQ at the addresses provided above.

IX. 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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Conformity, Hydrocarbons, Intergovernmental Relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: May 1, 2002.

Christine Todd Whitman,

Administrator.

[FR Doc. 02–11297 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC42–200220(a); FRL–7207–1]

Approval and Promulgation of Implementation Plans; South Carolina: Approval of Miscellaneous Revisions to The South Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revisions submitted by the South Carolina Department of Health and Environmental Control, through the State of South Carolina, for the purpose of amending regulations relating to volatile organic compounds (VOC's), prevention of significant deterioration (PSD) and other miscellaneous rules. In the Final Rules section of this **Federal Register**, the EPA is approving the South Carolina SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, 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 rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before June 6, 2002.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Randy Terry, 404/562–9032. South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201–1708.

FOR FURTHER INFORMATION CONTACT: Randy B. Terry at 404/562–9032, or by electronic mail at terry.randy@epa.gov.

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

Dated: April 8, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02–11289 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7205–8]

Utah: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant Final authorization to the hazardous waste program changes submitted by Utah. In the ''Rules'' section of this **Federal Register**, we are authorizing the State's program changes as an immediate final rule without a prior proposed rule because we believe this action is not controversial. Unless we receive written comments opposing this authorization during the comment period, the immediate final rule will become effective and the Agency will not take further action on this proposal. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing that rule before it takes effect. EPA will address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: We must receive your comments by June 6, 2002.

ADDRESSES: Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St, Ste 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139. You can view and copy Utah's application at the following addresses: Utah Department of Environmental Quality (UDEQ), from 8 a.m. to 5 p.m., 288 North 1460 West, Salt Lake City, Utah 84114–4880, contact: Susan Toronto, phone number: (801) 538–6776 and EPA Region VIII, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules'' section of this **Federal Register**.

Dated: April 26, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 02–11292 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG88

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Cirsium loncholepis* (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), and *Deinandra increscens* ssp. *villosa* (Gaviota tarplant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed designation of critical habitat for *Cirsium loncholepis* (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), and *Deinandra increscens* ssp. *villosa* (Gaviota tarplant), and the availability of the draft economic analysis for the proposed designation of critical habitat. We are reopening the comment period for these species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: We will accept public comments until June 6, 2002.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. For the electronic mail address, and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information, Connie Rutherford or Catrina Martin, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, telephone 805/644–1766; facsimile 805/644–3958.

SUPPLEMENTARY INFORMATION:

Background

Cirsium loncholepis (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), and *Deinandra increscens* ssp. *villosa* [=*Hemizonia increscens* ssp. *villosa*] (Gaviota tarplant) occur along the south central California coast. They are restricted to a narrow area in northern and western Santa Barbara County and southern San Luis Obispo County, in declining or altered habitats including central dune scrub, central maritime chaparral, valley needlegrass grassland, coastal freshwater wetlands, and southern bishop pine forest (Holland 1986, Schoenherr 1992).

Cirsium loncholepis is a short-lived, spreading, mound-like or erect and often fleshy, spiny member of the sunflower family (Asteraceae). Plants are from 10 to 100 centimeters (cm) (4 to 39 inches (in)) tall, with purplish flower heads occurring in wide, tight clusters at the tips of the stems. There are approximately 17 known locations for *Cirsium loncholepis,* all in San Luis and Santa Barbara counties. Ongoing threats to this species include groundwater pumping, oil field development and remediation, and competition from aggressive native and non-native plants.

Eriodictyon capitatum is a shrub in the waterleaf family (Hydrophyllaceae) with narrow, sticky stems up to 3 m (10 ft) tall, and a lavender inflorescence with corollas that are 6 to 15 mm (0.2 to 0.6 in) long. The four known locations of *Eriodictyon capitatum* occur in western Santa Barbara County. Fire management practices, invasive non-native plant species, low seed productivity, and naturally occurring catastrophic events pose significant threats to the long-term survival of this species.

Deinandra increscens ssp. *villosa,* a member of the sunflower family, is a yellow-flowered, variable gray-green, soft, hairy annual that is 30 to 90 cm (12 to 35 in) tall. *Deinandra increscens* ssp. *villosa* has a highly localized distribution in western Santa Barbara County, and is threatened by destruction of individual plants, habitat loss, and habitat degradation from the development and decommissioning of oil and gas facilities, including pipelines, and competition with non-native weeds.

On June 17,1999, our failure to issue a final rule and to make a critical habitat determination for *Cirsium loncholepis, Eriodictyon capitatum,* and *Deinandra increscens* ssp. *villosa* was challenged in *Southwest Center for Biological Diversity and California Native Plant Society* v. *Babbitt* (Case No. C99–2992 (N.D.Cal.). Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), *Cirsium loncholepis, Eriodictyon capitatum,* and *Deinandra increscens* ssp. *villosa,* were listed as endangered species on March 20, 2000 (65 FR 14888). On November

15, 2001, the proposed rule to designate critical habitat for *Cirsium loncholepis, Eriodictyon capitatum,* and *Deinandra increscens* ssp. *villosa,* was published in the **Federal Register** (66 FR 57560). The original comment period closed on January 14, 2002. We are reopening the comment period for an additional 30 days to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis.

We have proposed to designate approximately 27,046 hectares (66,830 acres) in San Luis Obispo and Santa Barbara Counties, California, as critical habitat for *Cirsium loncholepis, Eriodictyon capitatum,* and *Deinandra increscens* ssp. *villosa.* Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic or any other relevant impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Cirsium loncholepis, Eriodictyon capitatum,* and *Deinandra increscens* ssp. *villosa,* we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

(2) You may send comments by electronic mail (e-mail) to: *fw1coastaltrio@r1.fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG88'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at telephone number 805/644–1766.

(3) You may hand-deliver comments to our Ventura Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at ''www.r1.fws.gov/news'' or by writing to the Field Supervisor at the address under (1) above.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Catrina Martin (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 24, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–10999 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG73

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Holocarpha macradenia* (Santa Cruz Tarplant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed designation of critical habitat for the Santa Cruz tarplant (*Holocarpha macradenia*), and the availability of the draft economic analysis for the proposed designation of critical habitat. We are reopening the comment period for this species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: We will accept public comments until June 6, 2002.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. For the electronic mail address, and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Connie Rutherford or Catrina Martin, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, telephone 805/644–1766; facsimile 805/644–3958.

SUPPLEMENTARY INFORMATION:

Background

Holocarpha macradenia (Santa Cruz tarplant) is an aromatic annual herb in the aster family (Asteraceae) that is restricted to coastal terrace prairie habitat along the coast of central California. *Holocarpha macradenia* is one of only four species of the genus *Holocarpha.* All four are geographically restricted to California. The plant grows to the height of 10 to 50 centimeters (cm) (4 to 20 inches (in)). The yellow daisy-like flower head is surrounded from beneath by individual bracts (small leaf-like structure associated with flower head). *Holocarpha macradenia* is distinguished from other members of the genus by its numerous ray flowers and black anthers. *Holocarpha macradenia* is threatened primarily by historic and recent habitat destruction caused by residential development and habitat alteration caused primarily by land management practices that favor the increase of other species which compete with *Holocarpha macradenia. Holocarpha macradenia* is currently known from approximately 14 native and 8 experimentally seeded populations in Contra Costa, Monterey, and Santa Cruz Counties.

On June 17, 1999, our failure to issue a final rule and to make a critical habitat determination for Santa Cruz tarplant (*Holocarpha macradenia*) was challenged in *Southwest Center for Biological Diversity and California Native Plant Society* v. *Babbitt* (Case No. C99–2992 (N.D.Cal.). Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), *Holocarpha macradenia* was listed as a threatened species on March 20, 2000 (65 FR 14898). On November 15, 2001,

the proposed rule to designate critical habitat for *Holocarpha macradenia* was published in the **Federal Register** (66 FR 57526). The original comment period closed on January 14, 2002. We are reopening the comment period for an additional 30 days to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis.

We have proposed to designate approximately 1,360 hectares (3,360 acres) in Contra Costa, Santa Cruz and Monterey Counties, California, as critical habitat for *Holocarpha macradenia.* Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic or any other relevant impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Holocarpha macradenia,* we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

(2) You may send comments by electronic mail (e-mail) to: *fws1sctarplant@r1.fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG73'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at telephone number 805/644–1766.

(3) You may hand-deliver comments to our Ventura Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at *www.r1.fws.gov/news* or by writing to the Manager at the address under (1) above.

Author

The primary author of this notice is Catrina Martin (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 24, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–11001 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG92

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for *Thlaspi californicum* (Kneeland Prairie penny-cress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed designation of critical habitat for *Thlaspi californicum* (Kneeland Prairie penny-cress), and the availability of the draft economic analysis for this proposed designation of critical habitat. We are reopening the comment period to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final rule.

DATES: We will accept public comments until June 6, 2002.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Arcata Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Arcata Fish and Wildlife Office, at telephone: 707/822–7201; facsimile: 707/822–8411.

SUPPLEMENTARY INFORMATION:

Background

Thlaspi californicum is a perennial member of the mustard family (Brassicaceae). The species grows from 9.5 to 12.5 centimeters (3.7 to 4.9 inches) tall with a basal cluster of green to purplish, sparsely toothed leaves. Leaves borne along the stem are sessile (without a stalk) with entire to toothed margins. The white flowers have strongly ascending flower stalks. *Thlaspi californicum* flowers from April to June. The fruit is a sharply pointed silicle (a short fruit typically no more than two to three times longer than wide), and is elliptic to obovate, without wings, and with an ascending stalk.

Thlaspi californicum is endemic to serpentine soils in Kneeland Prairie, located in the outer north coast range of Humboldt County, California. Serpentine soils are derived from ultramafic rocks (rocks with unusually large amounts of magnesium and iron). The entire known distribution of *T. californicum* occurs on Ashfield Ridge at elevations ranging from 792 to 841 meters (m) [2,600 to 2,760 feet (ft)].

The only known occurrence of *Thlaspi californicum* includes five relatively distinct groups of plants all located within 300 m (980 ft) of each other. The species occupies an area divided by the Kneeland Airport and Mountain View Road. The known population consists of approximately 5,300 individuals. The five colonies occupy an estimated 0.3 ha (0.8 ac).

Historically, several land use activities may have altered the distribution and abundance of *Thlaspi californicum* colonies. These activities included construction of the county road in the 1800s (currently Mountain View Road), the Kneeland Airport in 1964, and the California Department of Forestry & Fire Protection (CDFFP) helitack base in 1980. Currently, potential threats to *T. californicum* include small population size; expansion of Kneeland Airport and CDFFP helitack base; road realignment; catastrophic events; and spread of exotic species.

On June 17, 1999, our failure to issue a final rule and to make a critical habitat determination for *Thlaspi californicum* was challenged in *Southwest Center for*

Biological Diversity and California Native Plant Society v. *Babbitt* (Case No. C99–2992 (N.D.Cal.). Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), *T. californicum* was listed as an endangered species on February 9, 2000 (65 FR 6332). On October 24, 2001, the proposed rule to designate critical habitat for *Thlaspi californicum* was published in the **Federal Register** (66 FR 53756). The original comment period closed on December 24, 2001. We are reopening the comment period for an additional 30 days to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis.

We proposed to designate critical habitat in one critical habitat unit that includes approximately 30 ha (74 ac), surrounding Kneeland Airport and bisected by Mountain View Road. This unit includes all five known plant colonies and all other serpentine outcrops in close proximity to the colonies. All of the proposed critical habitat for *Thlaspi californicum* is located on Ashfield Ridge in Kneeland Prairie, Humboldt County, California. Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *T. californicum,* we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this comment period. If you wish to comment, you may submit written comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521.

(2) You may send comments by electronic mail (e-mail) to: *FW1_kneelandpennycress@fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG92'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Arcata Fish and Wildlife Office at telephone number 707/822–7201.

(3) You may hand-deliver comments to our Arcata Fish and Wildlife Office at the above address.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at ''*www.r1.fws.gov/news*'' or by writing to the Field Supervisor at the address under (1) above.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Robin Hamlin, Fish and Wildlife Biologist, at the above Arcata address.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 24, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–11002 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG75

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Chlorogalum purpureum,* a Plant From the South Coast Ranges of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed designation of critical habitat for two varieties of purple amole: *Chlorogalum purpureum* var. *purpureum* (purple amole) and *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole), and the availability of the draft economic analysis for the proposed designation of critical habitat. We are reopening the comment period for these species to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: We will accept public comments until June 6, 2002.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. For the electronic mail address, and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: Heidi E. D. Crowell, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, telephone 805/644–1766; facsimile 805/644–3958.

SUPPLEMENTARY INFORMATION:

Background

Chlorogalum purpureum is a low-growing lily that forms a rosette composed of linear and flat, bright green leaves at the base of the plant (basal rosette). It is the only member of the genus *Chlorogalum* with bluish-purple flowers that open during daytime hours. *Chlorogalum purpureum* var. *purpureum* has an inflorescence (flowering structure) that is 25 to 40 cm (10 to 16 in) high, in contrast to *C. p.* var. *reductum* which has a shorter inflorescence that is 10 to 20 cm (4 to 8 in) high (Wilken 2000, Hoover 1964, Jernstedt 1993).

Chlorogalum purpureum is endemic to the south coast ranges of Monterey and San Luis Obispo counties. *Chlorogalum purpureum* var. *purpureum* (purple amole) occurs in the Santa Lucia Range of southern Monterey County and in northern San Luis Obispo County. *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole) occurs in one region of the La Panza Range of San Luis Obispo County. Threats include habitat fragmentation, habitat conversion, establishment of invasive plant species and nonnative

grasses, establishment of military training facilities at Fort Hunter Liggett and Camp Roberts, and possibly the establishment of the San Antonio Reservoir in southern Monterey County.

Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), both varieties of *Chlorogalum purpureum* were proposed for listing as threatened species on March 30, 1998 (63 FR 15158). On June 17, 1999, our failure to issue a final rule and to make a critical habitat determination was challenged in *Southwest Center for Biological Diversity and California Native Plant Society* v. *Babbitt* (Case No. C99–2992 (N.D.Cal.)). The final rule listing the species *Chlorogalum purpureum,* which comprises two varieties, *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole) and *Chlorogalum purpureum* var. *purpureum* (purple amole), as threatened was published on March 20, 2000. On November 8, 2001, the proposed rule to designate critical habitat for *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* was published in the **Federal Register** (66 FR 56508). The original comment period closed on January 7, 2002. We are reopening the comment period for an additional 30 days to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis.

We have proposed to designate approximately 8,898 hectares (21,980 acres) as critical habitat for *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* in Monterey and San Luis Obispo counties, California. Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency that may affect the critical habitat. Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic, or any other relevant impact of specifying any particular area as critical habitat. Based upon the previously published proposal to designate critical habitat for *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum,* we have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing addresses in the Public Comments Solicited section below.

Public Comments Solicited

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

(2) You may send comments by electronic mail (e-mail) to: *fw1chlorogalum@r1.fws.gov.* If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018–AG75'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Ventura Fish and Wildlife Office at telephone number 805/644–1766.

(3) You may hand-deliver comments to our Ventura Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at ''*www.r1.fws.gov/news*'' or by writing to the Field Supervisor at the address under (1) above.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Catrina Martin (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 24, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–11003 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI18

Endangered and Threatened Wildlife and Plants; Listing the Carson Wandering Skipper as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period, and notice of public informational meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed rule to list the Carson wandering skipper (*Pseudocopaeodes eunus obscurus*) as endangered. The comment period is reopened to allow additional time for all interested parties to submit written comments on the proposal. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. Additionally, we are announcing that a public informational meeting will be held to share information and answer questions from interested persons regarding the species and the listing proposal.

DATES: We will accept comments until the close of business on June 6, 2002. The public meeting will be held on May 22, 2002, from 5 p.m. to 7 p.m. at the Lassen County Fairgrounds Commercial Building in Susanville, California.

ADDRESSES: Copies of the draft proposal are available on the Internet at: *http://endangered.fws.gov/frpubs/01fedreg.htm* or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, at the above address.

You may also send comments by electronic mail (e-mail) to: *fw1renoskipper@r1.fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

You may hand-deliver comments to our Nevada Fish and Wildlife Office,

1340 Financial Boulevard, Suite 234, Reno, NV 89502.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Marcy Haworth, Nevada Fish and Wildlife Office, at telephone 775/861–6300; facsimile 775/861–6301.

SUPPLEMENTARY INFORMATION:

Background

The genus *Pseudocopaeodes* in the family Hesperiidae and subfamily Hesperiinae (grass skippers) contains only one species, *Pseudocopaeodes eunus.* The Carson wandering skipper (*Pseudocopaeodes eunus obscurus*) is one of five subspecies in this genus and is locally distributed in grassland habitats on alkaline substrates in eastern California and western Nevada. Currently, it is known from only two populations, one in Washoe County, Nevada, and one in Lassen County, California.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), we published an emergency rule to list the Carson wandering skipper as endangered on November 29, 2001 (66 FR 59537). The emergency rule provides immediate Federal protection to this subspecies for a period of 240 days. We also published a proposed rule on November 29, 2001, to list the Carson wandering skipper as endangered under our normal listing procedures (66 FR 59550).

For further information regarding background biological information, previous Federal actions, factors affecting the subspecies, and conservation measures available to the Carson wandering skipper, please refer to our emergency and proposed rules published in the **Federal Register** on November 29, 2001.

Public Comments Solicited

With this notification, we solicit additional information and comments that may assist us in making a final decision on the proposed rule to list the Carson wandering skipper as endangered. We intend that any final listing action resulting from our proposal will be as accurate and effective as possible. Therefore, we request comments and additional information from the general public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) The location of any additional populations of this subspecies, and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(2) Additional information regarding the range, distribution, and population size of this subspecies;

(3) Biological, commercial trade, or other relevant data regarding any threat (or lack thereof) to the Carson wandering skipper; and

(4) Current or planned activities or land use practices that could potentially impact the Carson wandering skipper.

Previously submitted written comments on this proposal need not be resubmitted. If you submit comments by e-mail, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: Carson wandering skipper'' and your name and return address in your e-mail message. If you do not receive a confirmation from our system that we have received your e-mail message, contact us directly by calling our Nevada Fish and Wildlife Office at telephone number 775/861–6300. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Nevada Fish and Wildlife Office, at the above address.

Public Meeting

A public informational meeting on the proposed listing of the Carson wandering skipper is scheduled to be held on May 22, 2002, from 5 p.m. to 7 p.m., at the Lassen County Fairgrounds Commercial Building in Susanville, California. Please contact the Nevada Fish and Wildlife Office at the above address with any questions concerning this public meeting.

Author

The primary author of this notice is Marcy Haworth of the Nevada Fish and Wildlife Office (see **ADDRESSES** section).

Authority: The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 24, 2002.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 02–11000 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

[I.D. 042502C]

Taking of the Cook Inlet (CI), Alaska, Stock of Beluga Whales by Alaska Natives, Marine Mammal Protection Act (MMPA)

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

ACTION: Notice of availability; request for comments.

SUMMARY: The MMPA allows NMFS to limit the subsistence harvest of marine mammals by Alaska Natives when the affected stock of marine mammals is depleted and after the opportunity for a formal hearing on the proposed regulations to limit subsistence harvest. After designating the Cook Inlet stock of beluga whales as depleted, NMFS proposed regulations to limit the subsistence harvest from this stock. In December 2000, a formal hearing was conducted on the proposed regulations. The Administrative Law Judge presiding in the hearing has submitted his recommended decision to the Assistant Administrator for Fisheries (AA). The Judge's recommended decision is available for public review, and NMFS solicits comments on his recommendations.

DATES: Comments must be received by May 27, 2002.

ADDRESSES: Copies of the recommended decision may be reviewed and/or copied at the Protected Resources Division, Alaska Regional Office, NMFS, Anchorage, AK, 99513; or at the Alaska Regional Office, Protected Resources Division, Juneau, AK 99802. Copies of the recommended decision and the entire record of the hearing may be reviewed and/or copied at the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments on the recommended decision should be forwarded to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or submitted by facsimile to (301) 713–0376. Comments will not be accepted if submitted via the Internet or e-mail.

FOR FURTHER INFORMATION CONTACT: Thomas Eagle, NMFS, Office of Protected Resources, (301) 713–2322, ext. 105; Barbara Mahoney, NMFS

Alaska Region, Anchorage Field Office, (907) 271–5006; or Michael Payne, NMFS, Alaska Region, (907) 586–7235.

SUPPLEMENTARY INFORMATION:

Electronic Access

The recommended decision, proposed regulations, and other documents related to the proposed rule and recovery effort are available on the Internet at the following address: *http://www.fakr.noaa.gov/protectedresources/whales/beluga.htm*.

Background

NMFS proposed regulations limiting the subsistence harvest of beluga whales in Cook Inlet, Alaska, on October 4, 2000 (65 FR 59164). The proposed rule's objectives are to recover the depleted stock of Cook Inlet beluga whales to its optimum sustainable population level while preserving the traditional subsistence use of the marine mammals by Alaska Natives. The proposed rule provides that:

(1) Subsistence harvest can only occur under an agreement between NMFS and an Alaska Native organization pursuant to section 119 of the MMPA;

(2) Subsistence harvest shall be limited to no more than two strikes annually until the stock is no longer considered depleted under the MMPA;

(3) The sale of CI beluga whale products shall be prohibited;

(4) All hunting for subsistence purposes shall occur after July 15 each year; and

(5) The harvest of newborn calves, or adult whales with maternally dependent calves shall be prohibited.

Section 101(b) and section 103(d) of the MMPA require that regulations prescribed to limit the subsistence harvest of marine mammals by Alaska Natives be made after opportunity for a formal agency hearing. Judge Parlen L. McKenna convened a hearing on the proposed rule December 5-8, 2000, in Anchorage, Alaska. Seven persons or parties participated in the hearing.

On March 29, 2002, Judge McKenna submitted his recommended decision in the case to the AA. Federal regulations (50 CFR 228.20) require the AA to make the recommended decision available for public review and comment for a 20-day period. Following the 20-day comment period, the AA must make a final decision on the proposed regulations, which must include the following:

(1) A statement containing a description of the history of the proceeding;

(2) Findings on the issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

The AA's decision must be published in the Federal Register, and final regulations shall be promulgated with the decision. In accordance with these regulations, NMFS solicits public comments on Judge McKenna's recommended decision.

Dated: May 1, 2002.

David Cottingham,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–11302 Filed 5–6–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 88

Tuesday, May 7, 2002

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

Forest Service

Grand Mesa, Uncompahgre and Gunnison National Forest, Colorado, Kennicott Slough Reservoir Peat Removal Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Surface Creek Ditch and Reservoir Company has asked to be allowed to remove all of the peat from Kennicott Slough Reservoir by mechanical means over the next five to ten years. This is in response to advice from the Colorado State Engineer's office that peat in the reservoir poses a serious risk to the integrity of the reservoir, and that failure of the dam could result in the loss of life and property down stream.

DATES: Comments concerning the scope of the analysis must be received by June 1, 2002. The draft environmental impact statement is expected August of 2002 and the final environmental impact statement is expected December of 2002.

ADDRESSES: Send written comments to Kennicott Slough Analysis, Grand Mesa, Uncompahgre and Gunnison National Forest, 2250 Hwy 50, Delta, Colorado 81416.

FOR FURTHER INFORMATION CONTACT: Jeff Burch, Environmental Coordinator, Grand Mesa, Uncompahgre and Gunnison National Forest, 2250 Hwy 50, Delta, Colorado 81416.

SUPPLEMENTARY INFORMATION: Kennicott Slough Reservoir capacity is approximately 1,034 acre-feet. The drainage basin area above the dam including the reservoir is about 283 acres. Before a dam was build at Kennicott Slough there existed a natural lake. Associated with this lake were extensive shallows which gradually filled in with peat deposits. These peat deposits are the accumulation of organic materials from wetland vegetation growth over long periods of time. They are thought to be as much as 10,000 years old in some parts of the reservoir. Given enough time they will completely fill shallow lakes and reservoirs. With the construction of the first dam at Kennicott in about 1900 to 1910, the water line of the bankfill pool expanded over existing peat and created more shallows conducive to the formation of peat and the ''peat body'' began to expand. With the construction of an even higher second dam in 1947 and 1948, fluctuating water levels caused additional detachment of peat from its original location, and peat producing vegetation and the peat body itself continued to expand.

The Forest Service estimates there to be approximately 317,000 cubic yards, or using a conversion of 50 to 70 pounds per cubic foot, 214,300 to 300,000 tons of peat proposed for removal from Kennicott Slough. Approximately 80% of the reservoir's surface area is occupied by either floating or submerged peat. As water levels fluctuate, and especially during spring snow/ice melt and runoff, pieces of peat detach from the main peat body and float freely. As water passes through the reservoir, these pieces of peat tend to migrate toward the outlet and spillway of the reservoir. Some pieces are small; others are large (as much as 40 feet across).

The Colorado State Division of Water Resources has advised that these floating pieces of peat pose a real threat to the safety of the dam. These detached pieces of peat have the potential of blocking either the outlet works or the spillway, causing overfilling of the reservoir, spillage and cutting of the earthen dam, and possible catastrophic failure. Kennicott is a Class I dam, which means that failure poses threat to human safety down stream. The nearest habitation is 3½ miles down stream and 2000 feet lower in elevation, with additional homes along the Kiser Creek channel about 6 miles downstream from the reservoir. The town of Cedaredge is some 12 to 15 miles below the reservoir on Surface Creek and could be affected by the sudden release of water from a dam failure. According to the reservoir company, this peat accumulation has been a problem for 50 or more years. At one point in time the reservoir was drained for a two-year period to allow for removal of the peat. The peat was to be removed, and sold, but the venture apparently proved unsuccessful from an economical approach.

More recently, the Surface Creek Ditch and Reservoir Company has been authorized each year to remove detached pieces of peat which pose the greatest threat, using mechanical means of removal. In fall, after the reservoir is drained and dried somewhat, a track-mounted backhoe, a front end loader, and dump truck operation remove identified pear. In 2000, approximately 200 tons were removed. This amounted to less than one tenth of one percent of the entire peat body at Kennicott. The same has been done in the fall of 2001, removing designated portions of the peat as part of routine reservoir maintenance. This annual practice of selective removal of peat does not address the broader and more long term problem.

Purpose and Need for Action

The purpose and need for action is dam safety. The detached pieces of peat directly threaten the safety of the dam with risk of blocking the spillway and outlet works intake. This poses a threat to the integrity of the dam.

Proposed Action

The proposed action is to remove the entire peat mass from Kennicott Slough Reservoir (approximately 30 acres) with heavy equipment (excavator, loader, dump truck) over a period of several years, during the months of August through October in order to prevent additional detachment of the pieces from the main peat mass and subsequent movement of the detached pieces into the reservoir spillway or outlet structure.

Possible Alternatives

Alternative 1: Under this alternative no additional peat removal would be authorized from Kennicott Slough Reservoir. This alternative is required by NEPA to be presented as a baseline to consider the environmental effects of action alternatives. In the event the action alternatives were found to be unacceptable, this alternative could be selected. However we are aware that this could (likely would over time) lead to expansion of the peat body, further detachment of peat and threat to the safety and function of the dam. This

could lead to the requirement to remove the dam structure and abandon the reservoir.

Alternative 2: Under this alternative the current practice of identifying specific areas (typically detached, semi-detached or those with extensive ''fractures'') of peat for removal on an annual basis would continue. Only detached pieces could be removed as operations and maintenance (O&M). There would be no systematic removal of the larger peat body. Operations would take place in the fall and would be below the high water line for the reservoir to prevent surface disturbance outside the footprint of the bank-full reservoir.

Alternative 3: This is the proposed action, and will not be repeated in detail here. See above.

Alternative 4: This alternative compresses the time within which the proposed peat removal would take place. Instead of extending the removal operation over several years, the company would be required to not fill the reservoir until all peat was removed. This would likely still take two to three years. The files on Kennicott have reference to one other occasion when this was attempted but not accomplished due to the cost involved. This would compress all effects into one short time period and would immediately and completely address the dam safety issue.

Alternative 5: Under this alternative, an engineering solution would be employed to armor or block the outlet works and the spillway against the deposits of loose peat. This alternative addresses a way to leave most of the peat in place and still maintain the dam in a safe condition as required by the State. In general a strong marine netting would be installed across the reservoir using concrete caisson piles to support the net panels. Prior to installation, peat would have to be removed between the netting location and the high water line toward the direction of the outlet works. The reservoir would be drained and left to dry out to the extent possible in one season to allow collection of the peat, drilling of the caissons, and installation of the net panels. The location of the netting would be about 25 feet from the outlet pipe and about 100 feet from the edge of the dam crest. The netting would have to be about 40 feet high in the deepest section and 1200 feet long.

Alternative 6: Under this alternative the existing peat which now represents a risk of detachment would be trimmed over the next 2 years. The edge of the peat would then be anchored using mechanical means. The remainder, 80 to 90%, of the peat/wetland/fen would be left in tact.

Responsible Official

The responsible official is Robert L. Storch, Forest Supervisor, 2250 Hwy. 50, Delta, Colorado 81416.

Nature of Decision To Be Made: The decision to be made is whether or not to allow the entire peat body, or some portion of it, to be removed, and on what schedule; and what mitigation measures or operating restrictions (these may include timing, methods, and other measures to prevent environmental harm or unacceptable conflict in the use of the National Forest).

Scoping Process: Initial scoping was conducted for this proposal during August and early September of 2000. Letters inviting comments on the proposal were sent to parties known to be interested. A news release was issued and published in the Grand Junction Daily Sentinel. Also, a legal notice was run in that same newspaper (see project record). Seven letters were received in response, and a number of phone conversations were documented. From the response to scoping, as well as from correspondence with the Surface Creek Ditch Company, and the State of Colorado Division of Water Resources, over a number of years dealing with the peat problem at Kennicott, an initial set of issues were identified. The agency ID Team met and discussed the project and identified additional issues to be addressed. This list of preliminary issues will be supplemented following comment in response to this NOI.

Preliminary Issues: The following issues have been identified as preliminary issues to be carried through the analysis: effects on the wetland/fen (including Threatened Endangered or Sensitive species of plants), dam safety, effects on water quality and water quantity, effects on aquatic and terrestrial wildlife (including Threatened, Endangered or Sensitive species), effects on the recreation setting and use of the area, effects on potential paleontological resources, road use/maintenance and access to Kennicott Slough Reservoir, and economics/cost of project.

Permits or Licenses Required: Activities regarding management of this reservoir are governed in part by a special use authorizations held by the Surface Creek Ditch and Reservoir Company, and administered by the U.S. Forest Service. There are no additional permits or licenses required.

Comment Requested

This notice of intent initiates the scoping proces which guides the development of the environment impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(*Authority:* 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1090.15, Section 21)

Dated: April 23, 2002.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 02–11214 Filed 5–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent to Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to revise and extend a currently approved information collection, the Agricultural Labor Survey.

DATES: Comments on this notice must be received by July 11, 2002 to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336-South, 1400 Independence Avenue SW, Washington, D.C. 20250–2024 or sent electronically to *gmcbride@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333 or Linda Hutton, Chief, Environmental, Economics, and Demographics Branch, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–6146.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Labor Survey.

OMB Number: 0535–0109.

Expiration Date of Approval: September 30, 2002.

Type of Request: Intent to Revise and Extend a Currently Approved Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, disposition, and prices. The Agricultural Labor Survey provides statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity; wage rates are used in the administration of the ''H–2A'' Program and for setting Adverse Effect Wage Rates. Survey data are also used to carry out provisions of the Agricultural Adjustment Act. NASS intends to request that the Agricultural Labor Survey be approved for another 3 years, with the program reduction noted below.

Notice is hereby given that the National Agricultural Statistics Service has modified the scope of the quarterly Agricultural Labor program as of July 2002. Based on findings of a recent comprehensive program review, the following changes have been made: (a) The number and average hours worked of self-employed and unpaid agricultural workers will no longer be collected each quarter and the annual averages will no longer be published and (b) the percent of hired workers that are migrant labor will no longer be collected or published.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 14,700.

Estimated Total Annual Burden on Respondents: 11,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Dated: April 26, 2002.

Rich Allen,

Associate Administrator.

[FR Doc. 02–11226 Filed 5–6–02; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–817]

Administrative Review of Oil Country Tubular Goods from Mexico: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 7, 2002.

FOR FURTHER INFORMATION CONTACT: Phyllis Hall at (202) 482–1398, or Abdelali Elouaradia at (202) 482–1374, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (''the Department'') to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested, and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On October 1, 2001, the Department published the Notice of Initiation of Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Mexico, covering the period August 1, 2000 through July 31, 2001 (66 FR 49924).

The preliminary results are currently due no later than May 3, 2002.

Extension of Time Limit for Preliminary Results of Review

The instant administrative review involves several complex issues that necessitate a greater amount of time in order to preliminarily complete this review (discrepancies between the public version and proprietary version of U.S. Customs data). Therefore, it is not practicable to complete the preliminary results of this review within the original time limits mandated by section 751 (a)(3)(A) of the Act. The Department is extending the time limit for completion of the preliminary results by 120 days, until September 2, 2002.

This extension of the time limit is in accordance with section 751 (a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: April 29, 2002

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–11309 Filed 5–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of prospective grant of exclusive patent license.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States of America, its territories, possessions and commonwealths, to NIST's interest in the invention embodied in U.S. Patent No. 6,015,714 (Application No. 09/098,142), titled, ''Characterization Of Individual Polymer Molecules Based On Monomer-Interface Interactions,'' filed June 16, 1998; NIST Docket No. 95–040CIP, to the President and Fellows of Harvard College, 1350 Massachusetts Avenue, Holyoke Center, Suite 727, Cambridge, MA 02138. The grant of the license would be for all fields of use.

FOR FURTHER INFORMATION CONTACT: J. Terry Lynch, National Institute of Standards and Technology, Office of Technology Partnerships, 100 Bureau Drive, Stop 2200, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty sharing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. The availability of the invention for licensing was published in the **Federal Register**, Vol. 67, No. 19 (January 29, 2002).

U.S. Patent No. 6,015,714 is a joint invention between Harvard, NIST, and the University of California. NIST's interest in the invention is owned by the U.S. government, as represented by the Secretary of Commerce. The present invention relates to a method for sequencing a nucleic acid polymer by (1) providing two separate, adjacent pools of a medium and an interface between the two pools, the interface having a channel so dimensioned as to allow sequential monomer-by-monomer passage from one pool to the other pool of only one nucleic acid polymer at a time; (2) placing the nucleic acid polymer to be sequenced in one of the two pools; and (3) taking measurements as each of the nucleotide monomers of the nucleic acid polymer passes through the channel so as to sequence the nucleic acid polymer.

Dated: April 30, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–11306 Filed 5–6–02; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042902C]

Marine Mammals; File No. 984–1587

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Terrie Williams, Long Marine Lab, Institute of Marine Sciences, University of California at Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95060, has requested an amendment to scientific research Permit No. 984–1587–00.

DATES: Written or telefaxed comments must be received on or before June 6, 2002.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 984–1587–00, issued on October 31, 2000 (65 FR 66718), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 984–1587–00 authorizes the permit holder to examine the physiological responses of two adult male dolphins (*Tursiops truncatus*) and three adult female California sea lions (*Zalophus californianus*) during swimming and diving. Testing involves measuring locomotor, thermal, and maintenance costs using voluntary behaviors through training at Long Marine Laboratory.

The permit holder requests authorization to: (1) extend the holding and research on the California sea lions at Long Marine Laboratory from the expiration date of September 30, 2002, to June 30, 2004; (2) obtain an adult male California sea lion on temporary breeding loan from Oceans of Fun

(Milwaukee, WI) to mate with the three female sea lions; and (3) conduct the same research on the three female sea lions while pregnant. All procedures are performed voluntarily by the sea lions. Types of take include mating; blood, milk, saliva, fecal, and urine sampling; open flow respirometry, swimming and walking, and voluntary breath holding. The purpose of this research is to test the hypothesis that physiological adaptations for the marine environment result in elevated energetic costs in otariids compared to terrestrial mammals, which will be tested by measuring locomotor, thermal, maintenance, and reproductive costs in sea lions.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 2, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–11303 Filed 5–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Navy Case No. 83,234, entitled ''Combining a Constraint Solvers with a BDD for Automatic Invariant Checking''.

ADDRESSES: Requests for information about the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

(**Authority:** 35 U.S.C. 207, 37 CFR Part 404)

Dated: May 1, 2002.

R. E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–11248 Filed 5–6–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend records system.

SUMMARY: The Department of the Navy proposes to amend two systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on June 6, 2002, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, DNS10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records system being amended is set forth below, as amended, published in its entirety.

Dated: April 29, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N12630–1

SYSTEM NAME:

Voluntary Leave Transfer Program Records (July 13, 2000, 65 FR 43307).

CHANGES:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete first paragraph and replace with 'Policy official: Office of Civilian Human Resources, Nebraska Avenue Complex, 321 Somers Court NW, Suite 40101, Washington, DC 20393–5451.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Employee, supervisors, co-workers or other agency or contractor-employee personnel, and private individuals to include family members of employee and outside practitioners.'

* * * * *

N12630–1

SYSTEM NAME:

Voluntary Leave Transfer Program Records.

SYSTEM LOCATION:

Navy Human Resources Offices. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have volunteered to participate in the leave transfer program as either a donor or recipient.

CATEGORIES OF RECORDS IN THE SYSTEM:

Separate files exist for leave recipients and leave donors records.

Leave recipients records contain the individual's name, organization, office telephone number, Social Security Number, position title, grade, pay level, leave balance, number of hours requested, brief description of the medical or personal hardship which qualifies the individual for inclusion in the program, the status of that hardship, and a statement that selected data elements may be used in soliciting donations. The file may also contain medical or physician certifications and agency approvals or denials.

Leave donors records contain the individual's name, organization, office telephone number, Social Security Number, position title, grade, and pay

level, leave balance, number of hours donated and the name of the designated recipient.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 6331 *et seq.* (Leave); E.O. 9397 (SSN); and 5 CFR part 630.

PURPOSE(S):

To manage the Department of the Navy's Voluntary Leave Transfer Program. The recipient's name, position data, organization, and brief hardship description are published internally for passive solicitation purposes. The Social Security Number is sought to effectuate the transfer of leave by human resources and pay offices from the donor's account to the recipient's account.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 522a(b)(3) as follows:

To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness, when leave donor and leave recipient are employed by different Federal agencies.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name/Social Security Number of leave recipient for access to their files. Name/Social Security Number of leave donor for access to their files.

SAFEGUARDS:

Access to records is limited to the custodian of the records or by persons responsible for servicing the records in the performance of their official duties. Records are stored in locked cabinets or rooms and are controlled by personnel screening. Computer terminals are located in supervised areas. Access to computerized data is controlled by password or other user code systems.

RETENTION AND DISPOSAL:

Records are destroyed one year after the end of the year in which the file is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy official: Office of Civilian Human Resources, Nebraska Avenue Complex, 321 Somers Court NW, Suite 40101, Washington, DC 20393–5451.

Record holder: Director of local Human Resources Offices. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquires to their servicing Human Resources Office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of record.

The request should contain the name, approximate date during which the case record was developed, the address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system of records should address written inquiries to their servicing Human Resources Office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records.

The request should contain the name, approximate date during which the case record was developed, the address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Employee, supervisors, co-workers or other agency or contractor-employee personnel, and private individuals to include family members of employee and outside practitioners.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12792–7

SYSTEM NAME:

Drug-Free Workplace Program Records (February 8, 2000, 65 FR 6184).

Changes

* * * * *

SYSTEM LOCATION:

Delete entry and replace with Records are located at the local naval activity, the local servicing Human Resources Offices, the Human Resource Service Center Regional Offices Regional Offices, or the Office of Civilian Human Resources.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''Pub.L. 100–71, 5 U.S.C. 7301; 21 U.S.C. 812 (Schedule of Controlled Substances); E.O. 12564, Drug-Free Federal Workplace; E.O. 9397 (SSN); and Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Negative test records are retained for three years and then destroyed by shredding, burning, or erasure in the case of electronic media. Positive or Non-negative test records are permanently retained. Written records and test results together with urine specimens shall be retained until litigation is complete when the employee challenges or appeals adverse actions. Negative urine specimens are disposed of at the end of the test day.''

* * * * *

N12792–7

SYSTEM NAME:

Drug-Free Workplace Program Records.

SYSTEM LOCATION:

Records are located at the local naval activity, the local servicing Human Resources Offices, the Human Resource Service Center Regional Offices Regional Offices, or the Office of Civilian Human Resources.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and applicants for employment with the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to selection, notification, testing of employees and applicants, urine specimens, drug test results, collection authentication and chain of custody documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub.L. 100–71, 5 U.S.C. 7301; 21 U.S.C. 812 (Schedule of Controlled Substances); and E.O. 12564, Drug-Free Federal Workplace; E.O. 9397 (SSN); and Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs.

PURPOSE(S):

The system is established to maintain records relating to the selection and testing of Department of the Navy employees, and applicants for employment, for use of illegal drugs and drugs identified in Schedules I and II of 21 U.S.C. 812 (Schedule of Controlled Substances).

The records are also used by the Medical Review Officer; the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and supervisory or management officials within the employee's agency having authority to take adverse personnel action against such employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with the provisions of 5 U.S.C. 7301, the DoD ''Blanket Routine Uses'' published at the beginning of the Navy's compilation do not apply to this system.

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

Note: Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. The results of a drug test of civilian employees may be disclosed only as expressly authorized under 5 U.S.C. 7301. These statutes take precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DoD ''Blanket Routine Uses'' do not apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records consist of written materials and/or electronic media.

RETRIEVABILITY:

Records are retrieved by name of employee, applicant for employment, Social Security Number, specimen I.D. number assigned, or any combination of these.

SAFEGUARDS:

Records will be stored in secure containers, e.g., safes, locked filing cabinets, etc. Urine specimens will be stored in appropriate locked storage facilities. Access to such records and specimens is restricted. Chain-of-custody and other procedural and documentary requirements of Pub. L. 100–71 and the Department of Health and Human Services Guidelines will be followed in collection of urine samples, conducting drug tests, and processing test results. All information contained in computers is password protected.

RETENTION AND DISPOSAL:

Negative test records are retained for three years and then destroyed by shredding, burning, or erasure in the case of electronic media. Positive or Non-negative test records are permanently retained. Written records and test results together with urine specimens shall be retained until litigation is complete when the employee challenges or appeals adverse actions. Negative urine specimens are disposed of at the end of the test day.

SYSTEM MANAGER(S) AND ADDRESS:

Policy and Record Holder: DON Drug Program Coordinator, Office of Civilian Human Resources, Nebraska Avenue Complex, 321 Somers Court NW, Suite 40101, Washington, DC 20393–5441.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Commanding Officer/Commander of the DON activity or the servicing human resources office at which they are or were employed, or at which they made application for employment, and for which they provided a urine specimen for drug testing.

Individuals may furnish their full name, Social Security Number, the title, series, and grade of the position they occupied or applied for when the drug test was conducted, specimen ID number, and the date of the test.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Commanding Officer/Commander of the DON activity or the servicing human resources office at which they are or were employed, or at which they made application for employment, and for which they provided a urine specimen for drug testing.

Individuals may furnish their full name, Social Security Number, the title, series, and grade of the position they occupied or applied for when the drug test was conducted, specimen ID number, and the date of the test.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual to whom the record pertains; DON or contractor employees involved in the selection, notification, and collection of urine from individuals who are tested; DON or contractor laboratories that test urine samples for the presence of illegal drugs, DON or contractor Medical Review Officers; supervisors and managers and other DON officials engaged in administering the Drug-Free Workplace Program; the Civilian Employee Assistance Program; processing adverse actions based on drug test results; and DON or contractor electronic databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–10994 Filed 5–6–02; 8:45 am]

BILLING CODE 5001–08–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195N]

English Language Acquisition: National Professional Development Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Note to Applicants

This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program

This program provides grants for professional development activities that will improve classroom instruction for

limited English proficient (LEP) children and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve LEP students.

Eligible Applicants: One or more institutions of higher education (IHEs) that have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs).

Deadline for Transmittal of Applications: June 6, 2002.

Deadline for Intergovernmental Review: July 8, 2002.

Available Funds: $37.5 million.

Estimated Range of Awards: $200,000-$300,000 per year for single IHEs applying in consortia with LEAs or SEAs. $300,000–$400,000 per year for multiple IHEs applying in consortia with LEAs or SEAs.

Estimated Average Size of Awards: $250,000 per year.

Estimated Number of Awards: 150.

Project Period: Up to 60 Months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 35 pages, using the following standards:

- A page is 8.5 X 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, except that within the 35-page limit you may include five pages or less of single-spaced text in one chart describing the management plan.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including budget justification and the cost itemization; Part IV, the assurances and certifications; the table of contents, or the one-page abstract, or the letters attached to the one-page abstract signed by consortia representatives. However you must include all of the application narrative in Part III.

If, to meet the page limit, you use more than one side of the page, you use a larger page, or you use a print size, spacing, or margins smaller than the standards in this notice, we will reject your application.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98 and 99.

Description of Program

The statutory authorization for this program, and the application requirements that apply to this competition, are set out in section 3131 of Public Law 107–110, the Elementary and Secondary Education Act of 1965 as amended by the No Child Left Behind Act of 2001.

Grants awarded under this program may be used for preservice professional development programs that will assist local schools and IHE's to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals; for the development of curricula appropriate to the needs of the consortia participants involved; and in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve limited English proficient children.

Priorities

Competitive Priority

Under 34 CFR 75.105(c)(2)(i), we award 15 points to applications that meet the following priority. These points are in addition to any points the applicant earns under the selection criteria.

IHE's, applying as lead agencies, in consortia with LEAs or SEAs, that are novice grantees, and which propose to assist participants to meet certification requirements for teachers of LEP students. For the purpose of this priority a novice grantee is defined as an institution of higher education that has not received funding since FY 1995 under Title VII of the Elementary and Secondary Education Act or 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994)

Invitational Priorities

The Secretary is particularly interested in applications that meet the following invitational priorities. However, an application that meets any of these invitational priorities receives no competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

(a) Applications proposing partnerships involving IHEs experienced in preparing teachers of LEP students, SEAs, and institutions proposing to develop new programs for teachers of LEP students, which may include Hispanic-Serving Institutions, Historically Black Colleges and Universities, and 2-year colleges,

(b) Applications which propose alternative teacher certification programs for individuals with high academic qualifications.

(c) Applications which propose professional development in research-based reading instruction for reading teachers of LEP students, other teachers of LEP students, or school administrators.

(d) Applications which address the needs of schools in rural areas with emerging populations of LEP students.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities that are not taken directly from statute. Ordinarily, this practice would have applied to the competitive priority and selection criteria in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts rules that apply to the first competition under a new program from this requirement. The program covered by this notice, the National Professional Development Program, is a new program that is authorized by the No Child Left Behind Act of 2001, P.L. 107–110. The Secretary, in accordance with section 437(d)(1) of GEPA, in order to ensure timely awards, has decided to forego public comment with respect to the competitive priority and selection criteria. The competitive priority and selection criteria will apply only to the FY 2002 grant competition, unless the Department issues a notice for proposed rulemaking for 2003.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (10 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the applicant has identified specific needs for improving the quality and increasing the quantity of educational personnel to serve LEP students in the targeted schools and districts.

(ii) The extent to which the applicant has coordinated with SEAs and LEAs in identifying needs to be addressed by the proposed project.

(b) *Quality of the project design.* (40 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the project design represents a cohesive plan, which effectively links identified needs, goals, objectives and activities.

(ii) The extent to which the project objectives specify measurable outcomes for the quality and quantity of participants recruited, the progress of participants in completing program requirements, the success of participants in achieving high standards and completing program requirements, the placement and the effectiveness of graduates in the instructional setting, and the improved capacity of the institution to prepare educational personnel to serve LEP students effectively.

(iii) The extent to which project curricula reflect state standards for educational personnel preparing to serve LEP students.

(iv) The extent to which the proposed project will effectively prepare participants who are preservice teachers in the content of subjects they will teach, and prepare all participants in instructional strategies and assessment measures appropriate for LEP students.

(v) The extent to which field practice activities will provide participants with adequate time, guidance, and experience in school settings with LEP students.

(vi) The extent to which the proposed project will be coordinated within the institution and with consortia members and will assist participants to progress effectively through their course of study and obtain employment in schools that serve LEP students.

(vii) The extent to which the proposed selection of participants who are preservice teachers is based on language proficiency in English and a language other than English, if appropriate, academic qualifications, and the demonstrated commitment to work in schools serving LEP students.

(viii) The extent to which the proposed project incorporates research-based instructional practices and professional development practices with demonstrated effectiveness in increasing children's English proficiency, and increasing participants' teaching skills and subject matter knowledge.

(ix) The extent to which the proposed project is designed to improve professional development for all teachers and other educational personnel in the IHE and in the schools to be served.

(c) *Quality of the management plan.* (20 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the effectiveness of the management plan in demonstrating how the objectives and activities of the proposed project will be achieved effectively on time, and within budget, including clearly defined responsibilities of staff, timelines, benchmarks, and milestones for accomplished tasks.

(d) *Quality of project personnel.* (5 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factor: the qualifications, including relevant training and experience, of key project personnel as required by job descriptions of key personnel.

(e) *Quality of the project evaluation.* (25 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the evaluation plan will provide performance feedback on program activities, including participant progress, and permit periodic assessment of participant and project progress toward achieving intended outcomes.

(ii) The extent to which the evaluation will provide data on the quality and quantity of participants recruited, the progress of participants in completing program requirements, the success of participants in achieving high standards and completing project requirements, the placement and the effectiveness of graduates in the instructional setting, and the improved capability of the institution to prepare educational personnel to serve LEP students.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive order 12372.

If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any SPOC, you may view the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants/spoc.html.*

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.195N, U.S. Department of Education, FB–6, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing under 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act, questions and answers on this program (located at the end of the notice) and various assurances, certifications, and required documentation:

a. Estimated Public Reporting Burden

b. Application Instructions

c. Nonregulatory Guidance: Questions and Answers

d. Application for Federal Education Assistance (ED 424) and instructions

e. Budget Information

f. Participant Data Form

g. Assurances—Non-Construction Programs (Standard Form 424B) and instructions

h. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions

i. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and instructions (Note: This form is intended for the use of grantees and should not be transmitted to the Department.)

j. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes

k. Notice to All Applicants (GEPA Requirement) and instructions (OMB No. 1801–0004)

You may submit information on a photocopy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit *one* original signed application, including ink signatures on all forms and assurances, and *two* copies of the application. Please mark each application as ''original'' or ''copy''. We will not award a grant unless we have received a completed application form.

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 person listed under **FOR FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in this application package.

Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available at GPO access at: *http://www.access.gpo.gov.nara.index.html*

FOR FURTHER INFORMATION CONTACT: Applicants west of the Mississippi River may contact: Brenda Compton-Turner, US Department of Education, 400 Maryland Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9839; E-mail address: *Brenda.Turner@ed.gov* Applicants east of the Mississippi River may contact: Mahal May, at the address above. Telephone: (202) 205–8727; E-mail address: *Mahal.May@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.

Instructions for Transmitting Applications

If you want to apply for a grant and be considered for funding you must meet the following deadline requirements:

(a) *If You Send Your Application By Mail.* You must mail the original and two copies of the application on or before the deadline date. Mail your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195N), Room 3671, Regional Office Building 3, 7th and D Streets, SW, Washington, DC 20202–4725.

You must show one of the following as proof of mailing.

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: Due to recent disruptions to normal mail delivery, the Department encourages you to consider using an alternative delivery method (for example, a commercial carrier, such as Federal Express or United Parcel Service; U.S. Postal Service Express Mail; or a courier service) to transmit your application for this competition. If you use an alternative delivery method, please obtain the appropriate proof of mailing under this section (a) ''If you Send Your Application by Mail,'' then follow the instructions in section (b) ''If You Deliver Your Application by Hand.''

(b) *If You Deliver Your Application By Hand.*—You or your courier must hand-deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date. Deliver your application to: U.S. Department of Education, Application Control Center, Attention: (CFDA#84.195N), Room #3671, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington DC time), except Saturdays, Sundays and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A courier delivering an application must show identification to enter the building.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) If you send your application by mail or you or your courier deliver it by hand, the Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9493.

(3) If your application is late, we will notify you that we will not consider the application.

(4) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Assistance (ED 424 (exp 11/30/2004)) the CFDA number and suffix letter, if any, of the competition under which you are submitting your application.

Program Authority: Section 3131 of Public Law 107–110.

Dated: May 1, 2002.

Maria Hernandez Ferrier,

Acting Director, Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students.

Appendix

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No.1885–0550. Expiration Date: April 30, 2004. We estimate the time required to complete this information collection is estimated to average 102 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202–4651. *If you have any comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6510.

Instructions for Application Narrative

Abstract

The narrative section should be preceded by a one-page single-spaced abstract that includes a short description of the project design, project objectives, activities, and competitive and invitational priorities the project proposes to address; the SEAs and LEAs with which you have entered into consortia arrangements; and a description of how the proposed program will not duplicate the activities of other proposed projects under this program or currently funded projects under Subpart 3 of Part A of Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act (Pub L. 103–382). You may attach to the abstract letters acknowledging participation in your consortium signed by representatives of LEAs or SEAS. These will not count against the page limit.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes. Instead, provide position descriptions for key personnel. Do not include bibliographies, letters of support, or appendices in your application. Paginate all pages of the narrative. This package includes questions and answers to assist you in preparing the narrative portion of your application.

Table of Contents

The application should include a table of contents listing the various parts of the narrative in the order of the selection criteria. Be sure that the table includes the page numbers where the parts of the narrative are found.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. A separate budget summary and cost itemization must be provided. Prepare an itemized budget for each year of requested funding. Requested budgets for each of years two through five should not exceed the requested budget for year one. Indirect costs for institutions of higher education, which are the fiscal agents for National Professional Development Program, are limited to the lower of either 8 percent of a modified total direct cost base or the IHE's actual indirect cost agreement. A modified direct cost base is defined as total direct costs less stipends, tuition and related fees and capital expenditures of $5,000 or more. In describing student support costs, distinguish costs for tuition and fees from costs for other stipends.

Final Application Preparation

Use the following checklist to verify that all necessary items are addressed. Prepare one original with an original signature, and include two additional copies. Do not use elaborate bindings or covers. The application package must be delivered to the Application Control Center (ACC) and postmarked by the deadline date published in this notice. Applicants are encouraged to use a courier service to deliver applications.

Checklist for Applicants

The following forms and other items must be included in the application:

1. Application for Federal Assistance (SF 424)
2. Budget Information (ED Form No. 524)
3. Itemized Budget for each year (attached to ED Form No. 524)
4. Participant Data Form
5. Assurances—Non-Construction Programs (SF 424B)
6. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
7. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
8. Disclosure of Lobbying Activities (SF–LLL)
9. GEPA Response
10. Table of Contents
11. One-page single-spaced abstract
12. Application narrative (Not to exceed 35 double-spaced paginated pages, see page limits)

Department of Education

Questions and Answers

What Activities Are Allowable Under the National Professional Development Program?

Allowable activities are those which serve teachers and other educational personnel who are either involved with, or preparing to be involved with, serving students with limited English proficiency. Such activities may include, but are not limited to: Providing career ladder programs for paraprofessionals; Developing program curricula; Collaborating with local school districts in designing high-quality professional development activities for new teachers; Improving teacher training programs to reflect high standards of professionalism; Providing programs to assist regular classroom teachers to meet State certification requirements for teachers of LEP students. Only institutions of higher education, applying in consortia arrangements with one or more local educational agencies or State educational agencies, are eligible to apply for the National Professional Development Program. This means the institution of higher education would be the lead agency and the fiscal agent for the grant.

What Type of Educational Personnel May Be Served Under the National Professional Development Program?

Applicants have flexibility in selecting methods and approaches for training participants; schools and school districts to be served, and types of personnel to be trained. These may include, but are not limited to, career ladder paraprofessionals, new teachers working toward alternative certification, regular classroom teachers working toward ESL or bilingual certification or endorsement, bilingual teachers preparing for recertification. In making choices about schools, types of personnel and training approaches, an applicant should consider the state plan for serving LEP students and the needs of schools and districts it proposes to serve.

May an Applicant Propose Training for More Than One Type of Personnel?

An applicant may propose training for more than one type of educational personnel, for example, career ladder paraprofessionals pursuing degrees and certification and regular classroom teachers working toward ESL endorsement. In determining the number of types of personnel to be trained, applicants should consider the identified needs of the districts to be served and the capacity of the institution to provide services for multiple types of educational personnel. In addition, applicants should also consider that service to multiple types of personnel may require goals, objectives, project activities and evaluation activities for each type of personnel. Applicants are reminded of the 35-page limit.

How Does an Applicant Demonstrate That it Is Not Duplicating Activities of Currently Funded Grants?

An applicant that proposes activities that duplicate those under another proposal under this program or funded under a current grant awarded under subpart 3 of Part A of Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382) will be rejected. An applicant should describe in the 1-page abstract how the proposed project will

extend or expand activities it is currently conducting or that are currently conducted by another entity. Some examples of extended or expanded activities include: Extending services to districts or schools which are currently not served; Implementing a new service delivery model, such as a distance learning program or a professional practice school; Implementing professional development for a new category of training participants, such as paraprofessionals preparing to become teachers.

What Information May Be Helpful in Planning a Budget?

For each of project years two through five, an applicant's requested budget should not exceed the amount of the budget requested for year 1. Project budgets should reflect proposed project activities. It is expected that the major portion of budget costs for National Professional Development Program will be related to costs for student support. In addition to student support costs, budget items may include costs for personnel, supplies or equipment, and other costs to support developmental activities.

What Information May Be Helpful in Preparing a Narrative for the National Professional Development Program?

Technical assistance information on professional development grants is available through the OELA website: *www.ed.gov/offices/OELA*. In responding to the selection criteria, applicants may wish to consider the following questions as a guide for preparing the application narrative.

- Does the project plan describe specific responsibilities of districts, schools, institutions of higher education, and other partnership organizations in planning, implementing, and evaluating the proposed project? How were teachers, administrators and others involved in planning and designing the project? What resources and support will be provided by each of the contributing partners?
- Does the management plan effectively demonstrate the relationship among project objectives and activities (including benchmarks and milestones), budget expenditures (such as personnel, travel, and supplies) for accomplishing project tasks? Is the information conveyed clearly in a chart or graph?
- Will support services be provided for participants to ensure that they make progress and complete project requirements, such as special academic support, mentoring, enhanced advisement, test preparation, coordinated release time? How will the project coordinate with other departments in the institution and with LEAs to be served or other consortia partners to ensure that services are provided?
- Are coursework and field practice well described? Are expected competencies of participants described? Does the narrative explain how project requirements support state certification requirements and State k-12 instructional standards?
- How will the project improve professional development in the IHE and in the target schools? For example, will project activities result in improved curricula related to preparing all teachers to provide instruction to LEP students, or to strengthening content knowledge of teachers; in improved field practice, assessment of teacher skills, or improved skills of higher education faculty; in better support services for participants?
- How will the project coordinate with other departments in the institution, partner schools, the SEA or national organizations to ensure graduates are placed in a school setting serving LEP students?
- What are the expected outcomes for participant recruitment, participant progress in meeting project requirements, participant success in achieving program standards, graduate effectiveness in the instructional setting, improved professional development in the school or the university? Do objectives include indicators of expected performance? Will the project use multiple measures to assess participant and program effectiveness? What measures will the proposed program use to collect data on the effectiveness of the program in meeting its objectives, such as: field practice assessments, National or State benchmark tests, surveys of graduates, mentor teachers, school administrators, rates of transfer from 2-year to 4-year institutions, graduation rates, placement rates, achievement of k-12 students?
- How will the project assess progress and performance of participants; communicate meaningful, regular and timely feedback to participants? How will the project collect data and report on recruitment, participants' progress in meeting program requirements, participants' success in achieving program standards and graduate placement and effectiveness in the instructional setting? What evaluation questions related to project, participant, graduate effectiveness are proposed to guide the evaluation design?

Other

- Applicants are reminded to consider delivery of applications by courier service to the Application Control Center.
- Applicants applying as novice grantees should indicate their status as novice grantee on item 6 of the Application Face Page and in the 1-page abstract.

BILLING CODE 4000–01–U

Application for Federal Education Assistance (ED 424)

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 11/30/2004

Applicant Information

Organizational Unit

1. Name and Address
Legal Name: _____

Address: _____

_____

_____ City _____ State _____ County _____ ZIP Code + 4 _____ - _____

2. Applicant's D-U-N-S Number |___|___|___|___|___|___|___|___|___|

3. Applicant's T-I-N |___|___| - |___|___|___|___|___|___|___|

4. Catalog of Federal Domestic Assistance #: **84..195N**

Title: _____

_____

5. Project Director: _____

Address: _____

_____ City _____ State _____ Zip code + 4

Tel. #: ( ) _____-_____ Fax #: ( )_____-_____

E-Mail Address: _____

6. Novice Applicant ___Yes ___No

7. Is the applicant delinquent on any Federal debt? ___Yes ___No
(If "Yes," attach an explanation.)

8. Type of Applicant *(Enter appropriate letter in the box.)* |____|

A - State	F - Independent School District
B - Local	G - Public College or University
C - Special District	H - Private, Non-profit College or University
D - Indian Tribe	I - Non-profit Organization
E - Individual	J - Private, Profit-Making Organization

K - Other (*Specify*): _____

Application Information

9. Type of Submission:

-PreApplication	*-Application*
___ Construction	___ Construction
___ Non-Construction	___ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
___ Yes (*Date made available to the Executive Order 12372 process for review):* ____/____/_____

___ No *(If "No," check appropriate box below.)*
___ Program is not covered by E.O. 12372.
___ Program has not been selected by State for review.

11. Proposed Project Dates: ____/____/_____ ____/____/_____
Start Date: **End Date:**

12. Are any research activities involving human subjects planned at any time during the proposed project period?
___ Yes (Go to 12a.) ___ No (Go to item 13.)

12a. Are **all** the research activities proposed designated to be exempt from the regulations?
___ Yes (Provide Exemption(s) #): _____

___ No (Provide Assurance #): _____

13. Descriptive Title of Applicant's Project:

_____

_____

Estimated Funding

14a. Federal	$ _____	**.00**
b. Applicant	$ _____	**.00**
c. State	$ _____	**.00**
d. Local	$ _____	**.00**
e. Other	$ _____	**.00**
f. Program Income	$ _____	**.00**
g. TOTAL	$ _____	**.00**

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Authorized Representative (*Please type or print name clearly.*)

_____

b. Title: _____

c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address: _____

e. Signature of Authorized Representative

_____ Date: ___/___/_____

Instructions for Form ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com.**

3. **Tax Identification Number.** Enter the taxpayer's identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested. The CFDA number can be found in the federal register notice and the application package.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Novice Applicant.** Check **"Yes"** or "**No**" only if assistance is being requested under a program that gives special consideration to novice applicants. Otherwise, **leave blank.**

   Check "**Yes**" if you meet the requirements for novice applicants specified in the regulations in 34 CFR 75.225 and included on the attached page entitled "Definitions for Form ED 424." By checking "Yes" the applicant certifies that it meets these novice applicant requirements. Check "**No**" if you do not meet the requirements for novice applicants.

7. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

8. **Type of Applicant.** Enter the appropriate letter in the box provided.

9. **Type of Submission.** See "Definitions for Form ED 424" attached.

10. **Executive Order 12372.** See "Definitions for Form ED 424" attached. Check **"Yes"** if the application is subject to review by E.O. 12372. Also, please enter the month, day, and four (4) digit year (e.g., 12/12/2001). Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, day, and four (4) digit year (e.g., 12/12/2001).

12. **Human Subjects Research.** (See I.A. "Definitions" in attached page entitled "Definitions for Form ED 424.")

    If Not Human Subjects Research. Check "**No**" if research activities involving human subjects are not planned at any time during the proposed project period. The remaining parts of Item 12 are then not applicable.

    If Human Subjects Research. Check "**Yes**" if research activities involving human subjects are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution. Check "**Yes**" even if the research is exempt from the regulations for the protection of human subjects. (See I.B. "Exemptions" in attached page entitled "Definitions for Form ED 424.")

12a. **If Human Subjects Research is Exempt from the Human Subjects Regulations.** Check "**Yes**" if all the research activities proposed are designated to be exempt from the regulations. Insert the exemption number(s) corresponding to one or more of the six exemption categories listed in I.B. "Exemptions." In addition, follow the instructions in II.A. "Exempt Research Narrative" in the attached page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. **If Human Subjects Research is Not Exempt from Human Subjects Regulations.** Check "**No**" if some or all of the planned research activities are covered (not exempt). In addition, follow the instructions in II.B. "Nonexempt Research Narrative" in the page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. **Human Subjects Assurance Number.** If the applicant has an approved Federal Wide (FWA) or Multiple Project Assurance (MPA) with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, that covers the specific activity, insert the number in the space provided. If the applicant does not have an approved assurance on file with OHRP, enter "None." In this case, the applicant, by signature on the face page, is declaring that it will comply with 34 CFR 97 and proceed to obtain the human subjects assurance upon request by the designated ED official. If the application is recommended/selected for funding, the designated ED official will request that the applicant obtain the assurance within 30 days after the specific formal request.

Note about Institutional Review Board Approval. ED does not require certification of Institutional Review Board approval with the application. However, if an application that involves nonexempt human subjects research is recommended/selected for funding, the designated ED official will request that the applicant obtain and send the certification to ED within 30 days after the formal request.

13. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show

breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, day, and four (4) digit year (e.g., 12/12/2001) in the date signed field.

Paperwork Burden Statement. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725

Definitions for Form ED 424

Novice Applicant (See 34 CFR 75.225). For discretionary grant programs under which the Secretary gives special consideration to novice applications, a novice applicant means any applicant for a grant from ED that—

- Has never received a grant or subgrant under the program from which it seeks funding;
- Has never been a member of a group application, submitted in accordance with 34 CFR 75.127-75.129, that received a grant under the program from which it seeks funding; and
- Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127-75.129, a group includes only parties that meet the requirements listed above.

Type of Submission. "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). "Construction" also includes remodeling to meet standards, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

Executive Order 12372. The purpose of Executive Order 12372 is to foster an intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The application notice, as published in the Federal Register, informs the applicant as to whether the program is subject to the requirements of E.O. 12372. In addition, the application package contains information on the State Single Point of Contact. An applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact. For additional information on E.O. 12372 go to http://www.cfda.gov/public/eo12372.htm.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

I. Definitions and Exemptions

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Research

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Human Subject

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the **only** involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are chil-***

dren, exemption 2 applies only to research involving educational tests and observations of public behavior when the investigator(s) do not participate in the activities being observed. Exemption 2 does not apply if children are surveyed or interviewed or if the research involves observation of public behavior and the investigator(s) participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

II. Instructions for Exempt and Nonexempt Human Subjects Research Narratives

If the applicant marked "Yes" for Item 12 on the ED 424, the applicant must provide a human subjects "exempt research" or "nonexempt research" narrative and insert it immediately following the ED 424 face page.

A. Exempt Research Narrative.

If you marked "Yes" for item 12 a. and designated exemption numbers(s), provide the "exempt research" narrative. The narrative must contain sufficient information about the involvement of human subjects in the proposed research to allow a determination by ED that the designated exemption(s) are appropriate. The narrative must be succinct.

B. Nonexempt Research Narrative.

If you marked "No" for item 12 a. you must provide the "nonexempt research" narrative. The narrative must address the following seven points. Although no specific page limitation applies to this section of the application, be succinct.

(1) **Human Subjects Involvement and Characteristics**: Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable

(2) **Sources of Materials**: Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) **Recruitment and Informed Consent**: Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) **Potential Risks**: Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) **Protection Against Risk**: Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) **Importance of the Knowledge to be Gained**: Discuss the importance of the knowledge gained or to be gained as a result of the proposed research. Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

(7) **Collaborating Site(s)**: If research involving human subjects will take place at collaborating site(s) or other performance site(s), name the sites and briefly describe their involvement or role in the research.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Washington, D.C. 20202-4248, telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://www.ed.gov/offices/OCFO/humansub.html

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

PARTICIPANT DATA

Note: This form must be completed by applicants under the National Professional Development Program

Number of proposed participants in each of the following categories to be served each year of the grant.

Preservice Teachers (who are not paraprofessionals) _____

Preservice Teachers (who are currently paraprofessionals) _____

Inservice Teachers _____

Other Educational Personnel (Specify type of personnel below) _____

_____ _____

_____ _____

Degree level(s) to be attained (if applicable) _____

Certification Type(s) to be attained _____

Language(s) of Participants (other than English) _____

_____

_____

OMB No: 1885-0550 Expiration Date: April 30, 2004

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position

title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ACertification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,≅ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount**, *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

OMB Control No. 1890-0007 (Exp. 09/30/2004)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Public Law (P.L.) 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1890-0007.** The time required to complete this information collection is estimated to average 1.5 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3652, GSA Regional Office Building No. 3). Washington, DC 20202-4248.

[FR Doc. 02–11307 Filed 5–6–02; 8:45 am]

BILLING CODE 4000–01–C

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. No 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register.**

DATES: Thursday, June 6, 2002,—9:00 a.m.—5:00 p.m.; Friday, June 7, 2002,—8:30 a.m.—4:00 p.m.

ADDRESSES: Best Western Hood River Inn, 1108 East Marina Way, Hood River, OR 97031 (541) 386–2200.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Phone: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Thursday, June 6, 2002

- Discussion of the Draft Hanford Performance Management Plan
- Update on C3T (Cleanup Constraints and Challenges Team)
- Introduction of Draft Advice on the Integrated Safety Management System (ISMS)
- Introduction of Draft Advice from the Exposure Scenario Task Force Workshop on the 200 Area
- Introduction of Draft Advice on the FY03 and FY04 Budgets

Friday, June 7, 2002

- Groundwater/Vadose Zone Presentation and Discussion
- Adoption of Draft Advice on the Integrated Safety Management System (ISMS)
- Adoption of Draft Advice from the Exposure Scenario Task Force Workshop on the 200 Area
- Adoption of Draft Advice on the FY03 and FY04 Budgets
- Long-Term Stewardship Draft Plan
- Committee Updates

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operation Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC, on May 2, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–11284 Filed 5–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Federal Energy Management Advisory Committee

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Federal Energy Management Advisory Committee (FEMAC). The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that these meetings be announced in the **Federal Register** to allow for public participation. This notice announces the seventh meeting of FEMAC, an advisory committee established under Executive Order 13123—''Greening the Government through Efficient Energy Management.''

DATES: Monday, June 3, 2002; 6:00 p.m. to 7:30 p.m.; Tuesday, June 4, 2002; 1:00 p.m. to 2:00 p.m.

ADDRESSES: Wyndham Palm Springs Hotel, 888 East Tahquitz Canyon Way, Palm Springs, California 92262. Monday's meeting will be in the Wyndham's Mojave Training Center. Tuesday's meeting will be in the Wyndham's San Jancito Room.

FOR FURTHER INFORMATION CONTACT: Rick Klimkos, Acting Designated Federal Officer for the Committee, Office of Federal Energy Management Programs, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; (202) 586–8287.

SUPPLEMENTARY INFORMATION:

Purpose of meeting: To provide advice and guidance on a range of issues critical to meeting mandated Federal energy management goals.

Tentative Agenda: Agenda will include discussions on the following topics:

Monday, June 3, 2002

The advisory committee is interested in receiving comments and recommendations from Federal facility managers regarding their experiences with Federal energy management project; topics of interest include but are not limited to:

- Implementation of Executive Order 13123
- Innovative financing mechanisms
- New technologies, products, and services
- Sustainable design
- Training and technical assistance
- Availability of useful information

Tuesday, June 4, 2002

The advisory committee is interested in receiving comments and recommendations from industry stakeholders (e.g., equipment manufacturers, utilities, energy service companies) regarding their experiences with Federal energy projects; topics of interest include but are not limited to:

- Barriers and opportunities
- Innovative financing mechanisms
- New technologies, products, and services
- Availability of useful information

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Federal Energy Management Advisory Committee. If you would like to file a written statement with the committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Rick Klimkos at (202) 586–8287 or *Rick.Klimkos@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to

include the scheduled oral statements on the agenda. The chair of the committee will make every effort to hear the views of all interested parties. The chair will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 1, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–11283 Filed 5–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1084–000]

Alcan Power Marketing, Inc.; Notice of Issuance of Order

May 1, 2002.

Alcan Power Marketing, Inc. (Alcan) submitted for filing a rate schedule under which Alcan will engage in the sales of capacity, energy, replacement reserves, and ancillary services at market-based rates and for the reassignment of transmission capacity. Alcan also requested waiver of various Commission regulations. In particular, Alcan requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Alcan.

On April 24, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Alcan 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).

Absent a request to be heard in opposition within this period, Alcan is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Alcan, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Alcan's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 24, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (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 at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11261 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–1118–000]

Continental Electric Cooperative Services, Inc.; Notice of Issuance of Order

May 1, 2002.

Continental Electric Cooperative Services, Inc. (CCS) submitted for filing a rate schedule under which CCS will engage in the sales of capacity, energy and ancillary services at market-based rates and for the reassignment of transmission capacity. CCS also requested waiver of various Commission regulations. In particular, CCS requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CCS.

On April 24, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-Central, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CCS 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).

Absent a request to be heard in opposition within this period, CCS is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of CCS, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CCS' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 24, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (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 at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11262 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–065 California]

El Dorado Irrigation District; Notice of Public Meetings

May 1, 2002.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El

Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies have asked the Commission for time to work collaboratively with a facilitator to resolve certain issues relevant to this proceeding. These meetings are a part of that collaborative process. On Monday, May 13, 2002, there will be a Plenary Meeting, and meetings of Recreation and Terrestrial Workgroups. On Tuesday, May 14, the Aquatics-Hydrology Workgroup will meet. The workgroup meetings will focus on further defining interests and the development of management objectives. We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in these meetings.

On Monday, May 13, the meetings will be held as follows:

Plenary Meeting—9:00 am–11:30 am
Recreation Workgroup—12:30 pm–3:30 pm
Terrestrial Workgroup—3:30 pm–4:30 pm

On Tuesday, May 14, the aquatics-hydrology workgroup will meet from 9:00 am until 4:00 pm. All meetings will be held in the Folsom Hilton Garden Inn, located at 221 Iron Point Road, Folsom, California.

For further information, please contact Elizabeth Molloy at (202) 208–0771 or John Mudre at (202) 219–1208.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11263 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–64–001]

Trailblazer Pipeline Company; Notice of Compliance Filing

May 1, 2002.

Take notice that on March 8, 2002, Trailblazer Pipeline Company (Trailblazer) tendered for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective April 20, 2002.

Trailblazer states that the filing is submitted pursuant to the Federal Energy Regulatory Commission's (Commission) order issued May 18, 2001, in Docket No. CP01–64–000, which directed Trailblazer to file tariff sheets implementing its expansion project fuel retention percentage and tracking mechanism, incremental recourse rates, and either its negotiated expansion contracts of tariff sheets between thirty (30) and sixty (60) days before the in-service date of the new facilities.

Trailblazer requests any waivers which may be required to permit the tariff sheets submitted to become effective on April 20, 2002.

Trailblazer states that copies of the filing have been mailed to interested state regulatory agencies and all parties set out on the Commission's official service list in Docket No. CP01–64.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed by May 13, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11260 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–557–001, et al.]

Reliant Energy Desert Basin, LLC, et al.; Electric Rate and Corporate Regulation Filings

April 30, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Reliant Energy Desert Basin, LLC

[Docket No. ER02–557–001]

Take notice that on April 24, 2002, pursuant to the Letter Order issued March 29, 2002 in the captioned docket, Reliant Energy Desert Basin, LLC tendered for filing a long-term service agreement under its market-based rate tariff, with the service agreement designated as required by Order No. 614.

Comment Date: May 15, 2002.

2. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1422–001]

Take notice that on April 16, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing corrections to certain errata contained in the Joint Open Access Transmission Tariff for the Midwest Independent Transmission System Operator, Inc for the Transmission System (Michigan), FERC Electric Tariff, Original Volume No. 2, which was filed on March 29, 2002, in the above referenced docket.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: May 13, 2002.

3. Reliant Energy Aurora, LP, Reliant Energy Coolwater, LLC, Reliant Energy Desert Basin, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian River, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Reliant Energy Ormond Beach, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County, LP, El Dorado Energy, LLC, Astoria Generating Company, L.P., Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Liberty Electric Power, LLC, Orion Power MidWest, L.P., Twelvepole Creek, LLC

[Docket No. ER02–1635–000]

Take notice that on April 22, 2002, Astoria Generating Company, L.P., Carr Street Generating Station, L.P., Erie

Boulevard Hydropower, L.P., Liberty Electric Power, LLC, Orion Power MidWest, L.P., and Twelvepole Creek, LLC (collectively, the Orion Entities) tendered for filing pursuant to Section 205 of the Federal Power Act, and Part 35 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR 35 revised market-based rate tariffs in connection with the recent merger of Reliant Energy Power Generation Merger Sub, Inc. (Merger Sub) and the Orion Entities' parent company, Orion Power Holdings, Inc. (Orion Power). In addition, Reliant Energy Aurora, LP, Reliant Energy Coolwater, LLC, Reliant Energy Desert Basin, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian River, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Reliant Energy Ormond Beach, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County, LP and El Dorado Energy, LLC (collectively, the Reliant Affiliates), amended their market-based rate tariffs to remove restrictions applicable only while the merger of Merger Sub and Orion Power was pending.

The Reliant Affiliates and the Orion Entities request waiver of the prior notice requirements of Section 35.3 of the Commission's regulations, 18 CFR 35.3, to permit their filing to become effective February 19, 2002.

Comment Date: May 13, 2002.

4. LG&E Capital Corporation

[Docket No. ER02–1636–000]

Take notice that on April 24, 2002, LG&E Capital Corporation tendered for filing a Notice of Cancellation pursuant to 18 CFR 35.15 in order to reflect the cancellation of its Market Rate Tariff, designated as FERC Electric Tariff, Original Volume No. 1, originally accepted for filing in Docket No. ER99–2108–000.

Comment Date: May 15, 2002.

5. California Independent System Operator Corporation

[Docket No. ER02–1637–000]

Take notice that on April 24, 2002, the California Independent System Operator Corporation (ISO) submitted for filing Amendment No. 43 to the ISO Tariff. Amendment No. 43 would modify Section 11.2.4.1 of the ISO Tariff such that, through September 30, 2002, the ISO will settle Energy imported into the ISO Control Area by Scheduling Coordinators for each BEEP interval during the operating hour at the ISO Instructed Imbalance Energy Market Clearing Price. The ISO requests that these modifications be made effective immediately upon Commission approval.

The proposed modification will make participation in the ISO Real Time Market more attractive for importers of Energy.

The ISO has served copies of this filing upon the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and on all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff. In addition, the ISO is posting this filing on the ISOs Home Page.

Comment Date: May 15, 2002.

6. New England Power Pool

[Docket No. OA97–237–012]

Take notice that on April 24, 2002, the New England Power Pool (NEPOOL) Participants Committee and ISO New England Inc. (ISO-NE) have jointly filed with the Federal Energy Regulatory Commission (Commission) for acceptance, materials reflecting compliance with the requirement of a certain settlement agreement approved by the Commission by order dated July 30, 1999, New England Power Pool, 88 FERC ¶ 61,140, that an audit of the charges for regional network service (RNS) under the formula rate provisions of the NEPOOL Tariff for charges in effect for the NEPOOL rate years June 1, 1997 through May 31, 2000 be performed by or under the direction of ISO-NE, and that the results of that audit be submitted to the Commission as an informational filing.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions, the NEPOOL Participants and to the parties who executed the settlement agreement.

Comment Date: May 24, 2002.

7. Avista Corporation; Bonneville Power Administration; Idaho Power Company; The Montana Power Company; Nevada Power Company; PacifiCorp; Portland General Electric Company; Puget Sound Energy, Inc.; Sierra Pacific Power Company

[Docket No. RT01–35–007]

Take notice that on April 22, 2002, Avista Corporation, the Bonneville Power Administration, Idaho Power Company, Nevada Power Company, NorthWestern Energy, L.L.C. (formerly the Montana Power Company), PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company, joined by British Columbia Hydro and Power Authority, a nonjurisdictional Canadian utility, (collectively, the filing utilities) filed with the Federal Energy Regulatory Commission (the Commission), an Errata Filing Relating to Stage 2 Filing and Request For Declaratory Order Pursuant to Order 2000. This filing corrects certain errors in the Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000, submitted to the Commission on March 29, 2002.

Comment Date: May 30, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11241 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Solicitation of Comments, Terms and Conditions, Recommendations, and Prescriptions

May 1, 2002.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application*: New Major License.

b. *Project No.*: P–401–027.

c. *Date Filed*: September 14, 2001.

d. *Applicant*: Indiana Michigan Power Company.

e. *Name of Project*: Mottville Hydroelectric Project.

f. *Location*: On the St. Joseph River, in Mottville Township, St. Joseph County, Michigan. The project does not affect Federal lands.

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

h. *Applicant Contact*: J.F. Norris, Jr., American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1700, or *jfnorris@aep.com*.

i. *FERC Contact*: Lee Emery, (202) 219–2778 or *lee.emery@FERC.gov*.

j. *Deadline for filing comments, final terms and conditions, recommendations, and prescriptions*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

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

k. The license application has been accepted for filing and is now ready for environmental analysis. No additional information or studies are needed to prepare the Commission's environmental assessment. Comments are now being requested from interested parties. The applicant will have 45 days following the end of this comment period to respond to any comments filed within the comment period.

l. *Description of Project*: The existing Mottville Project consists of: (1) two 17-foot high earth-filled embankments extending towards the center of the river from both riverbanks, (I) a west embankment that is 140 feet long and has a crest width of 15 feet and extends to the powerhouse, (ii) an east embankment that is 365 feet long and has a crest width of 8 feet and extends from the east riverbank to the spillway; (2) a 237-foot long, reinforced concrete spillway with 10 steel Taintor gates along the crest of the spillway, which are separated by 2.5-foot wide piers between Bays 1 and 2 and 3 and 4 and 1.5-foot-wide piers between the remaining Bays, (I) Taintor gates are 22 feet wide and 13 feet high in Bays 1 and 2 and 22 feet wide and 7.5 feet high in Bays 3 through 10; (3) a combined powerhouse-intake structure, made of brick and concrete, that is 118 feet long, 28 feet wide, and 25 feet long; (4) 4 vertical shaft, single runner, propeller type generating units with an installed generating capacity of 420 kW each; (5) a 14.5-foot-long, 28-foot-wide, and 25-foot-long switchboard bay attached to the west end of the powerhouse; (6) a 50 horsepower, 460-volt, 3-phase air bubbler system; (7) a 15-ton overhead traveling crane; (8) a 20-foot-wide stilling basin extending across the length of the spillway; (9) a 12-inch thick, reinforced concrete spillway apron; (10) an inoperable 4-foot-wide by 150-foot-long concrete fishway with a slope of about 25 percent; (11) sets of angled steel intake trashracks that are 3-feet 2-inches wide by 14-feet-high with 3/8-inch steel bars with 4-inch spacing between the bars; (12) a five-mile-long, 378-acre reservoir with a gross storage capacity of 2,900-acre-feet at the normal operating pool surface elevation of 770.4 NGVD; (13) a three phase, 2.4/34.5 kV transformer; and (14) other appurtenant facilities. The applicant estimates that the total average annual generation would be 7,800 MWh. All generated power is sold to Indiana Michigan Power Company's customers.

m. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'':and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction by contacting the applicant identified in item ''h'' above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (*see* Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

These deadlines may be extended by the Commission, but only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) Bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant, and the project number of the application, to which the filing pertains; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–11264 Filed 5–6–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7208–1]

Draft Procedure for the Joint Solicitation Of Research Proposals by the U.S. Environmental Protection Agency's Office of Research and Development and the American Chemistry Council's Long-Range Research Initiative; Solicitation of Public Input into the Development of a Joint Request for Applications on ''Novel Approaches for Analysis of Human Exposure Data;'' Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The U.S. Environmental Protection Agency's Office of Research and Development (ORD) and the American Chemistry Council's (ACC) Long-Range Research Initiative (LRI) are interested in issuing joint solicitations for research proposals. A draft document has been developed that sets

forth a public process that brings together government and industry to engage the best scientists in the research community to assist in improving the quantity and quality of data for use in human health and ecological risk assessment. Recent discussions have led ORD and ACC to agree to pursue, as a first area of collaboration, a joint request for applications (RFA) in the area of ''Novel Approaches for Analysis of Human Exposure Data.'' The purpose of this meeting is to: (1) Present the draft procedures for the public process of issuing joint RFAs, (2) solicit comment on the proposal, and (3) solicit specific input (e.g., suggested research areas) into the development of a joint RFA on novel approaches for analysis of human exposure data.

DATES: The meeting will be held on Thursday, May 23, 2002 beginning at 1 PM and adjourning at 4 PM. Times noted are Eastern Time.

ADDRESSES: The meeting will be held in the Hemisphere B Room on the Concourse Level of the Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, DC.

SUPPLEMENTARY INFORMATION: The draft procedure for the joint solicitation of research proposals by the U.S. Environmental Protection Agency's Office of Research and Development and the American Chemistry Council's Long-Range Initiative and the agenda for the meeting may be obtained electronically through: (1) The EPA website: *http://www.epa.gov/ncerqa,* (2) the ACC website: *http://www.american*chemistry.com, (3) the LRI website: http://www.uslri.org, and (4) the below listed point of contact.

The meeting is open to the public. Registration before the meeting is requested. Any member of the public wishing to make a presentation at the meeting should also request to do so beforehand. Presentations should be limited to 10 minutes. Written comments on the draft process for collaboration and for consideration toward the development of the RFA on novel approaches for analysis of human exposure data will be accepted until June 12, 2002.

FOR FURTHER INFORMATION CONTACT: Requests to register for the meeting and to provide oral and/or written public comment should be sent to Michaela Hancock, The Scientific Consulting Group, Inc., 656 Quince Orchard Road, Suite 210, Gaithersburg, MD 20878–1409; Telephone: 301–670–4990; x41; Fax: 301–670–3815; E-mail: mhancock@scgcorp.com

Dated: April 30, 2002.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 02–11301 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7207–6]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings: Affordability Criterion for Drinking Water Treatment Technologies for Small Systems

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of a meeting of the Environmental Economics Advisory Committee (EEAC) of the EPA Science Advisory Board (SAB) to review the Agency's affordability criterion for small systems under the Safe Drinking Water Act Amendments of 1996. The SAB was established to provide independent scientific and technical advice to the EPA Administrator on Agency positions; in this case the methodology for developing and applying the affordability criterion. The EEAC is a standing committee of the SAB and is responsible for reviewing economic guidance and analyses that are used by EPA in carrying out its mission.

The review meeting will be held on June 13, 2002 at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, VA 22314, telephone (703) 548–6300. The meeting will start at 9:00 am and conclude by 3:00 pm on that date. All times noted are Eastern Time. The meeting is open to the public, however, seating is limited and available on a first-come basis. *Important Notice*: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

The review will be conducted by the SAB's Environmental Economics Advisory Committee. Collectively, the appointed members of the EEAC have broad expertise in environmental economics and their expertise is appropriate to address EPA's charge which asks the SAB to address the economic aspects associated with development and application of the affordability criterion. The SAB will make use of Invited Experts to provide technical information and insights to inform the deliberations of the EEAC; however, these experts will not serve as members of this SAB Committee nor will they be signatories to the EEAC's report.

Background

The 1996 Safe Drinking Water Act (SDWA) amendments include a number of provisions intended to help minimize the financial impact that new regulations will have on small drinking water systems. Several important provisions of SDWA (e.g., compliance technologies, variance technologies, and variances) hinge on the concept of ''affordability'' as it applies to smaller communities across the country. The Agency currently assesses the affordability of new regulations on the basis of: (a) An estimated affordability threshold (the upper limit for the costs of water bills, including the costs of treatment, distribution, and operation), which the Agency puts at a level of 2.5% of the median household income (MHI); and (b) baseline expenditures (derived from current annual water bills and MHI). Detailed information on the Agency's approach to affordability can be found in the Report to Congress: Small System Arsenic Implementation Issues, dated March 2002 (see the report on the EPA Website at *http://www.epa.gov/safewater/arsenic.html).*

The Charge. The Agency is asking the SAB for advice on economic issues associated with its national-level affordability criterion, as well as the methodology used to establish the criterion. EPA asks that while taking into consideration the structure of the Safe Drinking Water Act and the limitations of readily available data and information sources, what is the Committee's opinion of the Agency's national level affordability criterion, methodology for deriving the criterion, and approach to applying those criteria to national primary drinking water regulations (NPDWRs)? Specifically, EPA is seeking the SAB's responses to the following questions:

1. What is the SAB's view of the Agency's basic approach of comparing average compliance costs for an NPDWR with an expenditure margin, which is derived as the difference between an affordability threshold and an expenditure baseline?

2. If the basic approach is retained, should a measure other than median income that captures the impact on more disadvantaged households be used as the basis for the affordability threshold? If so, what alternative measures (e.g., 10th or 25th income percentile, poverty level income) should the Agency consider and why? What would be the likely effect of such alternatives on existing and future

national level affordable technology determinations?

3. What alternatives should the Agency consider to 2.5% as the income percentage for the national level affordability threshold, and what would be the likely effect of such alternatives on existing and future national level affordable technology determinations? What basis should the Agency use to select from among such alternatives? Should the Agency use costs of other household goods and services or risk reduction activities as a basis for setting the affordability threshold as was done in the development of the current criteria?

4. Does the Committee believe the Agency should consider approaches to calculating the national ''expenditure baseline'' other than those used by the Agency heretofore?

5. Does the Committee believe that separate national level affordability criterion should be developed for ground water and surface water systems?

6. Should the Agency include an evaluation of the potential availability of financial assistance (e.g., Drinking Water State Revolving Fund) in its national level affordability criterion? If so, how could the potential availability of such financial assistance that reduces household burden be taken into consideration?

7. Is there a need for making affordable technology determinations on a regional rather than a national basis? Does adequate, readily available information exist to support such an approach? EPA is still exploring the degree of flexibility afforded by SDWA to make regional determinations, but would appreciate the Committee's advice on whether such determinations are feasible and warranted.

Approach to Conducting the Review—EPA has asked the EPA Science Advisory Board for advice on economic issues associated with its national-level affordability criterion. In addition to its focused discussion on the economic aspects of this issue with the SAB, EPA intends to obtain input on broader aspects of the criterion and the process for its establishment, from its National Drinking Water Advisory Council (NDWAC) and through interactions with a broad group of stakeholders that it intends to convene subsequent to the SAB review.

The SAB has determined that the appropriate Panel for conducting this focused review is its Environmental Economics Advisory Committee (EEAC), complemented by Invited Experts who can provide EEAC members with information on and insights into drinking water treatment techniques. By this notice, the public is invited to suggest names of experts who are appropriate for use as invited experts in this regard. The Invited Experts will not be members of the Panel, per se, and will not be signatories to the EEAC's report, nor will they be a part of analysis of balance of bias on this topic for the EEAC itself. Suggestions for Invited Experts should include the individual's name, affiliation, position, contact information (telephone number, mailing address, and email address and/or Website), a current resume (preferably in electronic form), and a statement regarding the nominee's background, experience, and qualifications to serve as an Invited Expert for this activity.

Biographical sketches of the EEAC members who are participating in this review can be found on the SAB Website at *www.epa.gov/SAB/*. By this notice, the public is invited to provide the EPA Science Advisory Board with information or analyses pertinent to the service of any of these individuals on the review. Information, preferably in electronic form, must be received no later than May 10, 2002. Information should be sent by mail to Mr. Thomas O. Miller, Designated Federal Officer, SAB Environmental Economics Advisory Committee (see contact information below). A final roster of the participating EEAC members, along with the Invited Experts, will be placed on the SAB Website no later than May 14, 2002.

The EEAC will deliberate in public session on June 13, 2002 in Alexandria, VA at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, VA 22314, telephone (703) 548–6300. The Meeting will convene at 9:00 am and adjourn no later than 3:00 pm Eastern Time. Not later than four weeks prior to the meeting, the Agency will send the group background information that will be the focus of their discussion at the public meeting. Material distributed to the EEAC and Invited Experts will be available from the Agency, not the SAB itself. To obtain copies of materials provided to the SAB, members of the public should contact by mail Mr. Amit Kapadia, US Environmental Protection Agency, Office of Ground Water and Drinking Water, Standards and Risk Management Division (4607M), 1200 Pennsylvania, Ave., NW, Washington, DC 20460; by email *kapadia.amit@epa.gov*; by FAX at (202) 564–3760; or by telephone at (202) 564–4879.

Approximately four weeks after the face-to-face meeting, the EEAC and Invited Experts will have a contingency conference call to resolve any outstanding issues before sending their report to the SAB Executive Committee for action and subsequent transmittal to the Administrator. The date and time of the contingency conference call will be posted on the SAB Website (*www.epa.gov/sab*) by June 15, 2002.

FOR FURTHER INFORMATION: Any member of the public wishing further information concerning this meeting or who wishes to submit brief oral comments must contact Mr. Thomas O. Miller, Designated Federal Officer, SAB Environmental Economics Advisory Committee, USEPA Science Advisory Board (1400A), Suite 6450CC, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4558; fax at (202) 501–0582; or via e-mail at *miller.tom@epa.gov*. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Mr. Miller no later than noon Eastern Time five business days prior to the meeting date (June 6, 2002). See below for time limitations on public comments.

Members of the public desiring additional information about the meeting location must contact Ms. Renee Cooper, EPA Science Advisory Board (1400A), Suite 6450N, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4533; fax at (202) 501–0582; or via e-mail at *cooper.renee@epa.gov*.

A copy of the draft agenda for each meeting will be posted on the SAB Website (*www.epa.gov/SAB/*) (under the AGENDAS subheading) approximately 10 days before that meeting.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments*: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments*:

Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Mr. Miller at least five business days prior to the meeting so that appropriate arrangements can be made.

General Information

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the Science Advisory Board FY2001 Annual Staff Report which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: April 29, 2002.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 02–11300 Filed 5–6–02; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting, Notice

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the June 13, 2002 regular meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a special meeting at 9:00 a.m. on Thursday, June 6, 2002. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4024, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: May 3, 2002.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 02–11396 Filed 5–7–02; 11:52 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 30, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments July 8, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, 445 12th Street, SW, Room 1–C804, Washington, DC 20554 or via the internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith Boley Herman at 202–418–0214 or via the internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0009.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

Form No.: FCC Form 316.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit, not-for-profit institutions, state, local, or tribal government.

Number of Respondents: 700.

Estimated Time Per Response: 3.5 hours.

Total Annual Burden: 700 hours.

Annual Reporting and Recordkeeping Cost Burden: $416,220.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; where there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; and where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated. The data is used by FCC staff in determining if the applicant is qualified to become a Commission licensee or permittee of a commercial or noncommercial broadcast station and to carry out the statutory provisions of Section 310(d) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–11211 Filed 5–6–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Compendium of Flood Map Changes

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Correction notice.

SUMMARY: This Correction Notice provides a listing of the changes to National Flood Insurance Program (NFIP) maps made by FEMA during the first 6 months of 2001 that were inadvertently omitted from the Compendium of Flood Map Changes issued in August 2001.

DATES: The listing provided in this Correction Notice includes changes to NFIP maps that became effective January 1, 2001, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Director, Hazard Mapping Division, Federal Insurance and Mitigation Administration, FEMA, Washington, DC 20472, (202)646–2756.

SUPPLEMENTARY INFORMATION: In accordance with Paragraph 1360(i) of the National Flood Insurance Reform Act of 1994, on August 28, 2001, we published a Notice in the **Federal Register** to inform interested parties of changes made by FEMA to NFIP maps. The two listings provided in that Notice showed communities affected by map changes made by letter and communities affected by physical map changes. We recently determined that some changes to NFIP maps made by FEMA during this period were inadvertently omitted from the August 28 **Federal Register** Notice. We are publishing this Correction Notice to inform all interested parties about the omitted map changes. As in the August 28 **Federal Register** Notice, a Map Revision listing is provided. For each physical map change, the Map Revision listing provides the map panel(s) affected and the effective date of the change. The listing also identifies: (1) those panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate the Letters of Map Change issued before the effective date; and (2) those panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community.

Dated: April 29, 2002.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

The Map Revision listing below includes those map panels that FEMA physically revised and republished from January 1 through June 30, 2001, that were omitted from the **Federal Register** Notice published on August 28, 2001. For those map panels on which the Special Flood Hazard Areas have not been changed or have been changed only to incorporate Letters of Map Change issued before the effective date, two asterisks (**) are shown to the right of the map panel number. For those map panels for which a Flood Insurance Rate Map is produced for the first time, resulting only in changes to flood insurance and floodplain management requirements in the affected community, three asterisks (***) are shown to the right of the map panel number. A single asterisk (*) is shown to the right of each county name that appears in the ''Community'' column. This asterisk indicates the area covered is the unincorporated areas of that county.

Region	State	Community	Panel	Panel date
07	IA	BEACON, CITY OF	190452 A***	01–MAR–2001
07	IA	GRAY, CITY OF	190318 B	02–APR–2001
07	IA	JEWELL, CITY OF	190600 A***	01–MAR–2001
07	KS	HOXIE, CITY OF	200508 A***	01–MAR–2001
07	MO	BATES COUNTY *	2907860001B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860002B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860003B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860004B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860005B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860006B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860007B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860008B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860009B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860010B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860011B***	01–MAR–2001
07	MO	BATES COUNTY *	2907860012B***	01–MAR–2001
07	MO	BATES COUNTY *	290786IND0***	01–MAR–2001
07	MO	HOLDEN, CITY OF	290714 A***	01–MAR–2001
07	MO	IRONDALE, TOWN OF	290446 B	02–APR–2001
07	NE	BURWELL, CITY OF	310354 A	02–APR–2001
07	NE	BUSHNELL, VILLAGE OF	310255 A	02–APR–2001
07	NE	CAMPBELL, VILLAGE OF	310256 A***	01–MAR–2001
07	NE	GUIDE ROCK, VILLAGE OF	310234 A***	01–MAR–2001
07	NE	RIVERTON, VILLAGE OF	310084 A***	01–MAR–2001
07	NE	TABLE ROCK, VILLAGE OF	310172 B	02–APR–2001

[FR Doc. 02–11254 Filed 5–6–02; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act Systems of Records; Notice of New System of Records

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Federal Emergency Management Agency (FEMA) proposes to establish a new system of records entitled ''Citizen Corps Database Tracking System, FEMA/VOL–1,'' and proposes routine uses for the new system. Subsections 552a(e)(4) and (11) of title 5, United States Code, provide that the public be given a 30-day period in which to comment on routine uses. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to review the proposed systems. The public, OMB and Congress are invited to comment on the proposed system of records.

DATES: The proposed system of records will be effective June 21, 2002, unless comments are received that result in a contrary determination.

ADDRESSES: Submit written comment to Rules Docket Clerk, Federal Emergency Management Agency, Office of General Counsel, room 840, 500 C Street SW., Washington, DC 20472, or (e-mail) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Edward Broyles at (202) 646–3961.

SUPPLEMENTARY INFORMATION: This new system of records contains information gathered by the Citizen Corps, which is part of the USA Freedom Corps established by President George W. Bush under Executive Order 13254, January 29, 2002. The Corps helps individuals to become involved in volunteer activities. FEMA is the lead federal agency for Citizen Corps activities. The Citizen Corps coordinates efforts and channels information to participating organizations, including the Community Emergency Response Team, Neighborhood Watch, Volunteers in Police Service, Medical Reserve Corps, Operation TIPS, and Citizen Corps Councils.

Dated: April 29, 2002.

Michael D. Brown,

General Counsel.

FEMA/VOL–1

SYSTEM NAME:

Citizen Corps Database.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FEMA Headquarters, Mezzanine Server Room, 500 C Street, SW., Washington, DC 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system covers those individuals who express an interest in Citizen Corps programs or activities. Corps programs include Community Emergency Response Teams, Neighborhood Watch, Volunteers in Police Service, Medical Reserve Corps, Operation TIPS, and Citizen Corps Councils.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each file or entry contains an interested individual's name, mailing address, e-mail address, and Volunteer Program area of interest. The database contains and tracks names of each individual and the date of expression of interest, type of interest expressed (e.g., Community Emergency Response Team, Neighborhood Watch, Citizen Corps Councils), and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Section 2, Executive Order 13254, January 29, 2002.

PURPOSE(S):

The Citizens Corps, through its Internet site at *www.citizencorps.gov*, allows individuals to indicate their interest in specific voluntary programs. Information concerning those desired activities is then disseminated by FEMA to the appropriate organization for further processing or response. The Citizens Corps coordinates efforts among several organizations, including the Community Emergency Response Team, Neighborhood Watch, Volunteers in Police Service, Medical Reserve Corps, Operation TIPS, and Citizen Corps Councils. In addition, these entities may express an interest in sharing their respective contact and similar information with other participants in these programs.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this file may be disclosed:

(a) To appropriate Federal, State, or local law enforcement agencies in connection with actual or potential violation of criminal or civil laws, statutes, or regulations, or in conjunction with investigative or litigation responsibilities of the recipient agency;

(b) In a proceeding before a court or adjudicative body before which FEMA is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by FEMA to be arguably relevant to the litigation: FEMA or any of its subdivision; any FEMA employee in his or her official capacity, or in his or her individual capacity where FEMA agrees to represent the employee; or the United States where FEMA determines that the litigation is likely to affect it or any of its subdivisions;

(c) To the USA Freedom Corps, Executive Office of the President;

(d) To organizations or activities that the respondent indicates as being within the respondent's areas of interest (e.g., Community Emergency Response Team participation);

(e) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and

(f) To the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Records in this system are not appropriate for disclosure to consumer reporting agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized records are stored in a database server in a secured file room.

RETRIEVABILITY:

Records are retrieved by name, mailing address, e-mail address or Volunteer Program(s) in which the respondent indicates an interest.

SAFEGUARDS:

The Database Administrator controls access to the files. The files are stored in a secure server room at Agency headquarters. Records are maintained in accordance with federal computer security standards.

RETENTION AND DISPOSAL:

FEMA will submit a request to the National Archives and Records Administration for disposition authority for this system of records. The request will recommend a retention period of 120 days and seek approval for records to be purged from the system after the period.

SYSTEM MANAGER(S) AND ADDRESS:

Rebecca Rutledge, FEMA Headquarters, Mezzanine Room, 500 C Street SW, Washington, DC 20472.

NOTIFICATION PROCEDURE:

Same as ''Record access procedures.''

RECORD ACCESS PROCEDURES:

Make all requests for access in writing, and clearly mark letter and envelope ''Privacy Act Request.'' Clearly indicate name of the requester, nature of the record sought, approximate dates of the records, and provide the required verification of identity. Direct all requests to the system manager identified above, Attention: Freedom of Information/Privacy Act Officer, and provide a return address for transmitting the information.

Contesting record procedures:

Direct all requests to contest or amend information to the system manager in accordance with the procedures outlined above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Records are generated by FEMA based on individual responses by users.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–11253 Filed 5–6–02; 8:45 am]

BILLING CODE 6718–32–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc.02-10242) published on page 20790 of the issue for Friday, April 26, 2002.

Under the Federal Reserve Bank of Kansas City heading, the entry for Brooke Holdings, Inc., Brooke Corporation, Inc., and Brooke Bancshares, Inc., all of Overland Park, Kansas, is revised to read as follows:

Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Brooke Holdings, Inc., Brooke Corporation, Inc., and Brooke Bancshares, Inc., all of Overland Park, Kansas; to become bank holding companies by acquiring 100 percent of the voting shares of Centerville State Bank, Centerville, Kansas.

Comments on this application must be received by May 20, 2002.

Board of Governors of the Federal Reserve System, May 1, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–11239 Filed 5–6–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 31, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Community Bankshares, Inc., Orangeburg, South Carolina; to merge with Ridgeway Bancshares, Inc., Ridgeway, South Carolina, and thereby indirectly acquire voting shares of The Bank of Ridgeway, Ridgeway, South Carolina.

2. First Citizens Bancorporation of South Carolina, Inc., Columbia, South Carolina; to acquire up to 10 percent of the voting shares of Trinity Bank, Monroe, North Carolina.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Southern Bancshares, Inc., Carbondale, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Shawnee Bancshares, Inc., Grand Tower, Illinois, and thereby indirectly acquire voting shares of Shawnee State Bank, Grand Tower, Illinois.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. First Financial Holding Co., Ltd., Taipei, Taiwan (in formation); to become a bank holding company by acquiring 100 percent of the voting shares of First Commercial Bank Co., Ltd., Taipei, Taiwan, and thereby indirectly acquire voting shares of First Commercial Bank (USA), Alhambra, California.

2. Bank of Taiwan, Taipei, Taiwan; to acquire at least 12.32 percent of the voting shares of First Financial Holding Co., Ltd., Taipei, Taiwan, and thereby indirectly acquire voting shares of First Commercial Bank Co., Ltd., Taipei, Taiwan, and First Commercial Bank (USA), Alhambra, California.

Board of Governors of the Federal Reserve System, May 1, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–11240 Filed 5–6–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0044]

Proposed Collection Application/ Permit for Use of Space in Public Buildings and Grounds

AGENCY: General Services Administration (GSA, Public Buildings Service.

ACTION: Notice of an emergency reinstatement and request for public comments of collection (3090–0044).

SUMMARY: Under the provisions of the paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the General Services Administration (GSA) is requesting the Office of Management and Budget (OMB) to reinstate an information collection that pertains to GSA Form 3453, Application/Permit for Use of

Space in Public Buildings and Grounds. This notice indicates GSA's intent to request an extension by 3 years of OMB's emergency reinstatement of this collection and to request public review and comment on the collection.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of GSA use of applications/permits for use of space in a GSA building, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before July 8, 2002.

FOR FURTHER INFORMATION CONTACT: Charlene Heeter, Public Buildings Service, GSA (202) 208–0214.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to Stephanie Morris, General Services Administration, Regulatory Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA will be requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0044, Application/Permit for Use of Space in Public Buildings and Grounds. The general public uses this GSA Form to request the use of public space in Federal buildings for cultural, educational, or recreational activities. A copy, sample, or description of any material or item proposed for distribution or display must also accompany this request.

B. Annual Reporting Burden

Respondents: 8,000.
Responses Per Respondent: 1.
Hours Per Response: 0.05.
Total Burden Hours: 400.
Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0044, GSA Form 3453, Application/Permit for Use of Space in Public Buildings and Grounds, in all correspondence.

Dated: April 29, 2002.

Michael W. Carlton,

Chief Information Officer (I).

[FR Doc. 02–11223 Filed 5–6–02; 8:45 am]

BILLING CODE 6820–EP–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0259]

Submission for OMB Review; Comment Request Entitled Market Research Questionnaire

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance (3090–0259), Market Research Questionnaire.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Market Research Questionnaire. A request for public comments was published at 67 FR 7377, February 19, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of market research information is necessary for the proper performance of GSA procurement, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: *Comment Due Date:* July 7, 2002.

ADDRESSES: Comments regarding this collection of information should be submitted to Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Service Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405 or fax to (202) 501–4067. Please cite OMB Control Number 3090–0259.

FOR FURTHER INFORMATION CONTACT: Charles P. Gallagher, Federal Supply Service, GSA (703) 305–6930.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting that the Office of Management and Budget (OMB) review and approve information collection, 3090–0259, concerning the Market Research Questionnaire. The Market Research Questionnaire is used to gather information that is necessary to develop and/or revise Federal specifications and other purchase descriptions.

B. Annual Reporting Burden

Respondents: 25.
Annual Responses: 25.
Average hours per response: 0.5.
Burden Hours: 12.5.
Obtaining Copies of Proposal: Requester may obtain a copy of the proposal from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0259, Market Research Questionnaire.

Dated: April 29, 2002.

Michael W. Carleton,

Chief Information Officer (I).

[FR Doc. 02–11224 Filed 5–6–02; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a public meeting of the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with section 10(a)(2), the Secretary's Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review changes

identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. During each meeting, invited witnesses will address how regulations affect health-related issues. Meeting agendas will also allow some time for public comment. Additional information on each meeting's agenda and list of participating witnesses will be posted on the Committee's Web site prior to the meetings (*http://www.regreform.hhs.gov*).

DATES: The second full meeting of the Secretary's Advisory Committee on Regulatory Reform will be held on Wednesday, May 15, 2002, from 8:00 a.m. to 5:00 p.m. and on Wednesday, May 16, from 8:00 a.m. to 3:00 p.m.

ADDRESSES: The hearing will be held in Ballroom ''E'' at the Marriott Denver City Center, 1701 California Street, Denver, Colorado, 80202.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 344G, Washington, DC, 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: The Marriott Denver City Center is in compliance with the Americans with Disabilities Act. Anyone planning to attend the meeting who requires special disability-related arrangements such as sign-language interpretation should provide notice of their need by Monday, May 14, 2002. Please make any request to Michael Starkweather—phone: 301–628–3141; fax: 301–628–3101; e-mail: *mstarkweather@s-3.com.*

On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department is establishing the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: April 29, 2002.

William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–11221 Filed 5–6–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02148]

Building Regional Coalitions to Promote Patient Safety; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for building regional coalitions to promote patient safety. This program addresses the ''Healthy People 2010'' focus areas of Access to Quality Health Services and Immunization and Infectious Diseases.

The purpose of the program is to support and develop a regional coalition that combines the efforts of major healthcare stakeholders to promote patient safety by preventing adverse events associated with healthcare, including evaluation of prevention effectiveness and cost effectiveness. Adverse events associated with healthcare to be targeted for preventions include, but are not limited to, healthcare associated infections, including those caused by antimicrobial resistant organisms. The goals of this program are to: (1) Support further development of an existing regional infrastructure to address issues of patient safety in a geographic area encompassing a major metropolitan area; (2) support implementation of interventions on a regional level designed to prevent adverse events associated with healthcare; (3) support interventions that address problems with current systems of healthcare delivery and their role in contributing to adverse events; (4) support the development of an existing region-wide system of surveillance for adverse events associated with healthcare; (5) support the development of a common information platform which can be used to collect electronic information on a regional level; and(6) evaluate the prevention effectiveness and cost effectiveness of regional interventions.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. Faith-based organizations are eligible to submit an application.

Applicants will need to have access to a coalition that actively engages a broad spectrum of healthcare quality stakeholders, including, but not limited to, healthcare facilities, major insurers, healthcare purchasers, physicians, corporate and civic leaders, organized labor, and State government.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

A. Availability of Funds

Approximately $100,000 is available in FY 2002 to fund one award. It is expected that the award will begin on or about September 1, 2002 and will be made for a 12 month budget period within a project period of up to three years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

1. Funding preference will be given to applicants who demonstrate the presence of an existing regional healthcare coalition with documented active engagement of a broad spectrum of healthcare quality stakeholders, including, but not limited to, healthcare facilities, major insurers, healthcare purchasers, physicians, corporate and civic leaders, organized labor, and State government. Applicants should have existing community charters signed by senior executive officers of at least 25 regional healthcare facilities, insurance companies representing at least 50 percent of the privately insured lives in the region, and at least 15 of the 30 largest employers in the region. These charters should specifically outline participatory actions to which the chief executive officers commit.

2. Funding preference will be given to applicants who can demonstrate the existence of a region-wide system of

surveillance for healthcare-associated infections. The surveillance system should include a method of reporting infections back to individual participating facilities. The method should utilize definitions and methods consistent with CDC's National Nosocomial Infection Surveillance System (NNIS).

3. Funding preference will be given to regional coalitions that can document prior and ongoing participation of at least 25 healthcare facilities in the geographic region, including the sharing of healthcare-associated infection surveillance data with all other participating institutions.

4. Funding preference will be given to applicants who demonstrate a prior interest in interventions which take a systems-based approach to improving healthcare quality.

5. Funding preference will be given to applicants who have experience in implementing quality improvement techniques adopted from non-healthcare industries to prevent adverse events associated with healthcare including, but not limited to, healthcare associated infections.

6. Funding preference will be given to applicants who have developed a common electronic information platform which has been used to collect electronic medical data from at least 20 healthcare facilities region-wide. The electronic information platform should be compliant with the functional and technical specifications of the National Electronic Disease Surveillance System (NEDSS)information architecture *http://www.cdc.gov/nedss.*

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

a. Further develop and implement a regional program to improve healthcare quality and assure patient safety by preventing adverse events associated with healthcare including, but not limited to, healthcare-associated infections.

b. Regional Program: Continue to build and develop the existing regional program designed to reduce healthcare-associated adverse events. Establish active involvement of a broad spectrum of stakeholders in healthcare quality, including healthcare facilities, major insurers, healthcare purchasers, physicians, corporate and civic leaders, organized labor, and State government.

c. Regional Surveillance system: Maintain an established regional system for surveillance of healthcare-associated adverse events, and a method for reporting the data back to individual healthcare facilities.

d. Coordination and networking of regional healthcare information systems: The regional program should have infrastructure in place that allows for electronic information networking and data sharing. Continue to develop the network for the purpose of collecting and sharing information that promotes healthcare quality in the region, including the development and validation of novel strategies for surveillance using electronic data.

e. Development and application of novel intervention strategies: Study novel interventions that address problems in healthcare delivery systems that contribute to adverse events associated with healthcare. Interventions should include strategies adopted from industries other than healthcare.

f. Evaluate prevention effectiveness and cost effectiveness: Develop methods for evaluating the prevention effectiveness and cost-effectiveness of interventions at both the facility and regional level.

2. CDC Activities

a. Collaborate, as appropriate, with the recipient in all stages of the program, and provide programmatic and technical assistance.

b. Assist in data collection, analysis, and interpretation of data from the project, as requested.

c. Participate in improving program performance through consultation based on information and activities of other projects.

d. Collaborate on appropriate aspects of the program, preventive measures, and program strategies for the prevention of adverse healthcare-associated events, as needed.

e. Assist, as needed, in the reporting and dissemination of research and other results and relevant healthcare quality prevention education and training information, to appropriate Federal, State, and local agencies, health-care providers, the scientific community, and prevention and service organizations with an interest in healthcare quality, and the general public.

f. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Content

Letter of Intent (LOI)

An LOI is optional for this program. The narrative should be no more than three single spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to enable CDC to determine the level of interest in the program. Your letter of intent should identify the program announcement number 02148, and should include the following information: (1) name and address of institution, and (2) name, address, telephone number, e-mail address, and fax number of a contact person.

Application

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins, and unreduced font, and should include the following information.

1. Provide a line-item budget and narrative justification for all requested costs. Budgets should be consistent with the purpose, objectives and research activities, and include:

a. Line-item breakdown and justification for all personnel, i.e., name, position title, annual salary, percentage of time and effort, and amount requested.

b. For each contract: (1) Name of proposed contractor, (2) breakdown and justification for estimated costs, (3) description and scope of activities to be performed by contractor, (4) period of performance, (5) method of contractor selection (e.g., sole source or competitive solicitation), and (6) method of accountability.

c. A brief five year budget projection should be submitted that clearly separates and distinguishes direct from indirect costs.

d. A description of any financial and in-kind contributions from nonfederal sources.

Additionally, include a one page, single spaced, typed abstract. The heading should include the title of the cooperative agreement, project title, organization, name and address, project director, and telephone number. This abstract should include a work plan identifying activities to be developed, activities to be completed, and a time line for completion of these activities.

F. Submission and Deadline

Letter of Intent (LOI)

On or before June 10, 2002, submit the letter of intent (original and two copies) to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm,* or in the application kit.

On or before July 5, 2002, submit the application to: Technical Information Management-PA02148, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received on or before the deadline date.

Late Applications: Applications which do not meet the criteria above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the objectives of the Building Regional Coalitions to Promote Patient Safety Program (5 points)

a. Demonstration of a clear understanding of the background and objectives of this cooperative agreement program.

b. Demonstration of a clear understanding of the requirements, responsibilities, problems, constraints, and complexities that may be encountered in establishing and operating the regional coalition.

c. Demonstration of a clear understanding of the roles and responsibilities of participation in the program.

2. Description of the existing regional coalition (40 points)

a. Clear description of the regional coalition participants, including the specific role of each and evidence of active participation. (10 points)

b. Clear description of the region wide system of surveillance for adverse events associated with healthcare, including the methods of reporting data back to individual participating facilities. The applicant should provide documentation of participation of a large proportion of healthcare facilities in the geographic region. (10 points)

c. Clear description of the common electronic information platform which has been used to collect electronic medical data from healthcare facilities region-wide. (10 points)

d. Clear description of the degree to which the applicant has exhibited an ability to comply with the NEDSS information technology architecture in the collection of electronic medical data from healthcare facilities participating in the regional coalition. (10 points)

3. Description of Existing Capacity to Actively Engage the Regional Participants in Implementing Activities That Support Patient Safety by Preventing Adverse Events Associated With Healthcare (25 points)

a. Description of applicants experience and documentation of accomplishments in conducting quality improvement activities.

b. Description of applicants experience and documentation of accomplishments in conducting surveillance and prevention activity in the areas of healthcare-associated infections and other adverse events.

c. Demonstration of the applicants interest and expertise in interventions which take a systems based approach to improving healthcare quality.

d. Demonstrate the applicants experience and expertise in quality improvement techniques adapted from non-healthcare industries.

e. Demonstration of applicants ability to develop and maintain strong cooperative regional relationships with medical, public health, laboratory, academic, and community organizations that are either public or private. Evidence of applicant's ability to solicit and secure programmatic collaboration, and financial and technical support from such organizations.

f. Demonstration of support from non-applicant participating agencies, institutions, organizations, laboratories, individuals, consultants, etc., mentioned in the operational plan. Applicant should provide (in an appendix) letters of support which clearly indicate each collaborator's willingness to participate in the activities of the regional coalition.

4. Operational Plan (20 points)

a. The extent to which the applicants plan for operating and maintaining the regional coalition clearly describes the proposed activities and clearly identifies the roles and responsibilities of all participating individuals, agencies, organizations, and institutions.

b. Description of the applicants plan for implementing interventions designed to promote patient safety through the prevention of adverse events associated with healthcare, including healthcare-associated infections.

c. Description of the applicants plan to develop and validate novel strategies for using electronic surveillance data for improving patient safety.

d. Description of the applicants plan to utilize quality improvement techniques adapted from non-healthcare industries to promote patient safety.

e. Consistency of the proposed projects with regard to program goals.

f. Identification of applicant's key professional personnel to be assigned to the program and to specific projects as well as key professional personnel from other participating or collaborating institutions, agencies, and organizations outside of the applicants agency that will be assigned to activities (provide curriculum vitae for each in an appendix). Clear identification of applicants' respective roles in the management and operation of the regional coalition.

g. Description of all support staff and services assigned to the regional coalition.

h. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes (1) the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation, (2) the proposed justification when representation is limited or absent, (3) a statement as to whether the design of the study is adequate to measure differences when warranted, and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community (or communities) and recognition of mutual benefits.

5. Evaluation (5 points)

a. Quality of plan for monitoring and evaluating the prevention effectiveness and the cost effectiveness of the interventions.

b. Quality of plan for monitoring and evaluating progress in achieving the purpose and overall goals of this cooperative agreement program.

6. Measures of Effectiveness (5 points)

The extent to which the applicant provides Measures of Effectiveness that

will demonstrate the accomplishments of the various identified objectives of the grant. Measures must be objective and quantitative and must measure the intended outcome.

7. Budget (not scored)

The extent to which the line-item budget is detailed, clearly justified, and consistent with the purpose and objectives of this program.

8. Human Subjects (Not Scored)

The extent to which the application adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317(k)(2) of the Public Health Service Act, [42 U.S.C. sections 241(a) and 247(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Yolanda Sledge, Grants Management Specialist, Acquisition and Assistance, Team B, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000 Mailstop K–75, Atlanta, GA 30341–4146, Telephone number: 770–488–2787, Fax number: 770–488–2777, E-mail address: yis0@cdc.gov.

For program technical assistance, contact: John Jernigan, M.D., Centers for Disease Control and Prevention, National Center for Infectious Diseases, Division of Healthcare Quality and Promotion, Executive Park 57, Suite 4109 Mailstop E–68, Telephone number: (404) 498–1257, Fax number: 404–498–1244, E-mail address: JJernigan@cdc.gov.

Dated: May 1, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–11249 Filed 5–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2002–11]

Request for Applications Under the Office of Community Services' Fiscal Year 2002 Community Food and Nutrition Program

AGENCY: Office of Community Services, Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of availability of funds and request for competitive applications under the Office of Community Services' Community Food and Nutrition Program (CFNP).

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), invites eligible entities to submit competitive grant applications for new grants for the Community Food and Nutrition Program (CFNP) pursuant to the Secretary's discretionary authority under Section 681 of the Community Services Block Grant Act, as amended [Sec. 42 USC 9922]. This Program Announcement contains forms and instructions for submitting an application. The awarding of grants under this Program Announcement is subject to the availability of funds for support of these activities.

DATES: To be considered for funding, applications must be *postmarked* on or before July 8, 2002. Applications postmarked after that date will not be accepted for consideration. See Part IV of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Catherine Rivers at (202) 401–9354 or the OCS Operations Center at 1–800–281–9519 for referral to the appropriate contact person in OCS for programmatic questions or send an e-mail to: *OCS@legnet.com.*

For a copy of this announcement, contact: OCS Operations Center, 1815 North Fort Meyer Drive, Suite 300, Arlington, Virginia 22209, 1–800–281–9519.

In addition, this announcement is accessible on the OCS website for reading or downloading at: *http://www.acf.dhhs.gov/programs/ocs/kits1.htm*

If this Program Announcement is not available at these sources, it may be obtained by telephoning or writing the office listed under **FOR FURTHER INFORMATION, CONTACT**.

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.571. The title is Community Food and Nutrition Program.

SUPPLEMENTARY INFORMATION: This Program Announcement consists of seven parts plus Attachments:

Part I Background Information

A. Legislative Authority
B. Program Purpose
C. Project Goals
D. Definition of Terms

Part II Program Objectives and Requirements

A. Project Requirements
B. Program Priority Areas
C. Eligible Applicants
D. Availability of Funds and Grant Amounts
E. Mobilization of Resources
F. Project and Budget Periods
G. Administrative Costs/Indirect Costs
H. Program Beneficiaries
I. Number of Projects in Application
J. Multiple Submittal
K. Sub-Contracting or Delegating Projects

Part III The Project Description, Program Proposal Elements and Review Criteria

A. Purpose
B. Project Summary Abstract
C. Objectives and Need for Assistance
D. Results or Benefits Expected
E. Approach
F. Organizational Profiles
G. Budget and Budget Justification
H. Non-Federal Resources

I. Evaluation Criteria

Part IV Application Procedures

A. Application Development/Availability of Forms
B. Application Submission
C. Intergovernmental Review
D. Initial OCS Screening
E. Consideration of Applications

Part V Instructions for Completing Forms SF–424

A. SF–424—Application for Federal Assistance
B. SF–424A—Budget Information—Non-Construction Programs
C. SF–424B—Assurances—Non-Construction Programs

Part VI Contents of Application and Receipt Process

A. Contents of Application
B. Application Format
C. Acknowledgment of Receipt

Part VII Post Award Information and Reporting Requirements

A. Notification of Grant Award
B. Reporting Requirements
C. Audit Requirements
D. Prohibitions and Requirements with Regard to Lobbying
E. Applicable Federal Regulations

Paperwork Reduction Act of 1995

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collected information.

The project description is approved under OMB control number 0970–0139 which expires 12/31/2003.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I. Background Information

A. Legislative Authority

The Community Services Block Grant Act, as amended, authorizes the Secretary of Health and Human Services to make funds available under several programs to support program activities which will result in direct benefits targeted to low-income people. This Program Announcement covers the grant authority found at Section 681 of the Community Services Block Grant Act, (The Act) (Pub. L. 97–35) as amended by the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub. L. 105–285), Community Food and Nutrition Programs. The Act authorizes the Secretary to award grants on a competitive basis to eligible entities for community-based, local and statewide and national programs including programs benefitting Indians (as defined in 42 U.S.C. 9911) and migrant farm workers. Grant funds are provided to: (1) coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations; (2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and (3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals.

B. Purpose of Community Food and Nutrition Program

The Department of Health and Human Services (DHHS) is committed to improving the overall health and nutritional well-being of all individuals, including low-income persons, through improved preventive health care and promotion of personal responsibility.

DHHS also recognizes that improving the health and nutrition status of low-income persons can also be improved by access to healthy, nutritious foods or by other means. The DHHS encourages community efforts to improve the coordination and integration of health and social services for all low-income families, and to identify opportunities for collaborating with other programs and services for this population. Such collaboration can increase a community's capacity to leverage resources and promote an integrated approach to health and nutrition through existing programs and services.

C. Project Goals

The goals of the Community Food and Nutrition Program are: (1) to coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve the food and nutrition needs of low-income populations; (2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and (3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals, including displaced workers, elderly people, children, and the working poor and other low-income individuals.

D. Definition of Terms

For purposes of this Program Announcement, the following definitions apply:

Budget period: The interval of time into which a grant period of assistance (project period) is divided for budgetary and funding purposes.

Displaced worker: An individual who is in the labor market but has been unemployed for six months or longer.

Eligible entity: State and local governments, as well as Indian tribes, and public and private nonprofit agencies/organizations including Community Action Agencies. (See Part II). Faith-based organizations are eligible to apply for these grants.

Empowerment Zones and Enterprise Communities: Those communities designated as such by the Secretary of Agriculture or the Secretary of Housing and Urban Development.

Indian tribe: A tribe, band, or other organized group of Native American Indians recognized in the State or States in which it resides or considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

Innovative project: One that departs from, or significantly modifies, past program practices and tests a new approach.

Migrant farmworker: An individual who works in agricultural employment of a seasonal or other temporary nature who is required to be absent from his/her place of permanent residence in order to secure such employment.

Program income: Gross income earned by the grant recipient that is directly generated by an activity supported with grant funds.

Project period: The total time for which a project is approved for support, including any approved extensions.

Seasonal farmworker: Any individual employed in agricultural work of a seasonal or other temporary nature who is able to remain at his/her place of permanent residence while employed.

Self-sufficiency: A condition where an individual or family does not need, and is not eligible to receive, TANF assistance under Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Part A of Title IV of the Social Security Act).

Underserved area (as it pertains to child nutrition programs): A locality in which less than one-half of the low-income children eligible for assistance participate in any child nutrition program.

Part II. Program Objectives and Requirements

The OCS invites qualified entities to submit competing grant applications for Community Food and Nutrition Projects that will establish, support, and/or manage food and nutrition services for low-income people. The main objective of the CFNP is to link low-income people to food and nutrition programs.

A. Project Requirements

Focus on one or more legislatively-mandated program activities: (a) coordination of private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations; (b) assistance to low-income communities in identifying potential sponsors of child nutrition programs and initiating such programs in unserved or underserved areas; and (c) development of innovative approaches at the state and local level to meet the nutrition needs of low-income individuals.

Additionally, in carrying out such activities, projects funded under this program should: (1) Be designed and intended to provide nutrition benefits, including those which incorporate the benefits of disease prevention, to a targeted low-income group of people; (2) Provide outreach and public education to inform eligible low-income individuals and families of other nutritional services available to them under the various Federally-assisted programs; (3) Carry out targeted communications and social marketing to improve dietary behavior and increase program participation among eligible low-income populations. Populations to be targeted can include displaced workers, elderly people, children, and the working poor, and (4) Consult with and/or inform local offices that administer other food programs such as W.I.C. and Food Stamps, where applicable, to ensure effective coordination which can jointly target services to increase their effectiveness. Such consultation may include involving these offices in planning grant applications.

The OCS views this program as a capacity building program, rather than a service delivery program.

B. Program Priority Areas

There are two Program Priority Areas under this program for Fiscal Year 2002: Priority Area 1.0, General Projects, under which OCS will accept applications as described below, and Priority Area 2.0, Nationwide Programs, will be covered under a separate Program Announcement as described below.

1. General Projects—Priority Area 1.0

The application should describe the target area and population to be served and discuss the nature and extent of the problem to be solved. The application must contain a detailed and specific work program that is sound and feasible. Projects funded under this Announcement must produce lasting and measurable results that fulfill the purposes of this program as described above. The OCS grant funds, in combination with private and/or other public resources, must be targeted to low-income individuals and communities.

Applicants will certify in their submission that projects will only serve the low-income population as stipulated in the DHHS Poverty Income Guidelines (Attachment A). Failure to certify that only beneficiaries that meet the DHHS Poverty Income Guidelines may result in the application not being considered for funding.

If an applicant proposes a project which will affect a property listed in, or eligible for, inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended. If there is any question as to whether the property is listed in, or is eligible for inclusion in, the National Register of Historic Places, applicant should consult with the State Historic Preservation Officer. The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to DHHS.

When projects proposed to mobilize or improve the coordination of existing public and private food assistance resources, the guidelines governing those resources apply. However, when projects propose to provide direct assistance to beneficiaries through grants funded under this program, those beneficiaries must fall within the official DHHS Poverty Income Guidelines as set forth in Attachment A.

Applications proposing the use of grant funds to develop printed or visual materials must contain convincing evidence that these materials are not available from other sources. The OCS will not provide funding for such items if justification is not sufficient. Approval of any films or visual presentations proposed by applicants approved for funding will be made part of the grant award. When material outlays for equipment (audio and visual) are requested, specific evidence must be presented that there is a definite programmatic connection between the equipment (audio and visual) usage and the outreach requirements described in Part II of this Announcement.

2. Nationwide Program—Priority Area 2.0

Under a separate Program Announcement, ACF/OCS will invite eligible applicants to compete for a grant to administer, through a Cooperative Agreement, the CFNP Nationwide Program. The ACF will make available approximately $300,000 to support the project for the first year. It is expected that this will be a three-year project.

For further information or to obtain a copy of the CFNP Nationwide Program Announcement, contact the office listed in this Announcement under **FOR FURTHER INFORMATION, CONTACT.**

C. Eligible Applicants

Eligible applicants are State and local governments, Indian tribes, and public and private nonprofit agencies/organizations with a demonstrated ability to successfully develop and implement programs and activities similar to those enumerated above. The OCS encourages Historically Black Colleges and Universities, minority institutions and faith-based organizations to submit applications. Eligible applicants with programs benefitting Native Americans and migrant or seasonal farmworkers are also encouraged to submit applications.

Any nonprofit organization, including faith-based organizations, are eligible to apply for these funds. In submitting an application, each organization must submit proof of its nonprofit status at the time of submission. The nonprofit agency can accomplish this by providing a copy of either the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations, a copy of the currently valid IRS tax exemption certificate, or a copy of the applicant's Articles of Incorporation bearing the seal of the State in which the corporation or association is domiciled.

D. Availability of Funds and Grant Amounts

1. Fiscal Year 2002 Funding

The funds available for grant awards under the Community Food and Nutrition Program (CFNP) in Fiscal Year 2002 are: General Projects—Priority Area 1.0: *$2,400,000.

All grant awards are subject to the availability of appropriated funds.

2. Grant Amounts

No individual grant application will be considered for an amount in excess of $50,000 for applications submitted under General Projects.

E. Mobilization of Resources

The OCS would like to mobilize as many resources as possible to enhance projects funded under the CFNP. The OCS supports and encourages applications submitted by applicants whose programs will leverage other resources, either cash or third party in-kind.

F. Project Periods and Budget Periods

For most projects, OCS will grant funds for one year. However, in rare instances, depending on the characteristics of any individual project and the justification presented in the application, a grant may be made for a project period of up to 17 months.

G. Administrative Costs/Indirect Costs

There is no predetermined administrative cost ceiling for projects funded under this program. Indirect costs consistent with approved indirect cost rate agreements are allowable. Applicants should enclose a copy of the current approved rate agreement. However, it should be understood that indirect costs are part of, and not in addition to, the amount of funds awarded in the subject grant.

H. Program Beneficiaries

Projects proposed for funding under this Announcement must result in direct benefits targeted toward low-income people as defined in the most recent annual update of the Poverty Income Guidelines published by DHHS. Attachment A to this Announcement is an excerpt from the most recently published guidelines. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year and are applicable to projects being implemented at the time of publication. Grantees will be required to apply the most recent guidelines throughout the project period. The **Federal Register** may be obtained from public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The **Federal Register** is also available on the Internet through GPO Access at the following web address: *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

No other government agency or privately defined poverty guidelines are applicable to determining low-income eligibility for this OCS program.

I. Number of Projects in Application

An application may contain only one proposed project and this project must address the basic criteria found in Parts II and III of this Program Announcement. Applications not complying with these requirements will not be funded.

J. Multiple Submittal

There is no limit to the number of applications that can be submitted by an eligible applicant as long as each application is for a different project. However, no applicant will receive more than one grant.

K. Sub-Contracting or Delegating Projects

The OCS will not fund any project where the role of the eligible applicant is primarily to serve as a conduit for funds to other organizations.

Part III. The Project Description, Program Proposal Elements and Review Criteria

A. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise, complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish resources directly related to the proposed project and those that will not be used in support of the specific project for which funds are requested.

B. Project Summary/Abstract

Provide a summary of the project description (one page or less) with reference to the funding request.

C. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, instructional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

D. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the population to be served by the Community Food and Nutrition Program, including how many low-income people are projected to be served. Explain the ways in which the project will be used to reach your client base and will benefit participants, including whether it may aid some participants in moving towards self-sufficiency.

E. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state the reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people served. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Indicate whether data will be collected, maintained, and/or disseminated. Note that clearance may be required from the U.S. Office of Management and Budget (OMB) in order to conduct such activities. This requirement pertains to any ''collection

of information that is conducted or sponsored by ACF''.

The OCS is also interested in projects that address the needs of homeless families and welcomes applications that seek to develop innovative approaches to promote health and nutritional awareness among low-income populations.

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

F. Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of either the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations, or the currently valid IRS tax exemption certificate, or, the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances.

Equipment

Description: ''Equipment'' means an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in, or excluded from, acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization whose definition of equipment differs from ACF's definition of equipment as described above should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under Equipment.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) (currently set at $100,000.) Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to

insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

H. Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

I. Evaluation Criteria

Proposal Elements and Review Criteria for Applications

Each application which passes the initial screening described in Part IV, Section D of this Program Announcement will be assessed and scored by three independent reviewers. Each reviewer will give a numerical score for each application. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement. Scoring will be based on a total of 100 points, and for each application will be the average of the scores of the three reviewers.

The competitive review of proposals will be based on the degree to which applicants:

(1) adhere to the requirements in PART II and (2) incorporate each of the Elements and Sub-Elements below into their proposals, so as to describe convincingly a project that will develop new food and nutrition services/activities to benefit low-income households including displaced workers, elderly people, children, and the working poor.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding Project Summaries, Budget Justifications and Appendices) exceeding 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed. Applicants should prepare and assemble their project descriptions using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

Project descriptions are evaluated on the basis of substance, not length. Pages should be numbered consecutively and a table of contents should be included for easy reference. Applicants are reminded that the overall Project Narrative must not exceed 30 pages.

When writing their Project Narratives, applicants should respond to the review criteria using the same sequential order.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement: (*Note:* The review criteria both reiterate and explain in greater detail the information requirements contained in Part II of this Announcement.)

Evaluation Criterion 1: Objectives and Need for Assistance

Element I. Description of Target Population and Analysis of Needs/Priorities (0 to 10 Points)

Sub-Element I(a) Description of Target Population. (0 to 4 Points)

In addressing this criterion, the applicant should describe the target area and population to be served, including specific details on any minority population(s) to be served.

Sub-Element I(b) Analysis of Needs/Priorities (0 to 6 Points)

In addressing the above criterion, the applicant should discuss the nature and extent of the problem(s) and/or need(s), including specific information on minority populations(s).

Evaluation Criterion 2: Approach I

Element II. Adequacy of Work Program (0 to 25 Points)

Sub-Element II(a). Realistic Quarterly Time Lines (0 to 10 Points)

Applicant should provide realistic quarterly projections of the activities to be carried out including the projected number of beneficiaries to be served each quarter.

Sub-Element II(b). Detailed Work Plan (0–15)

Applicant must insure that activities are adequately described and appear reasonably likely to achieve results which will have a desired impact on the identified problems and/or needs.

In addressing this criterion, the applicant should address the basic criteria and other mandated activities found in Part II and should include:

(1) Project priorities, and rationale for selecting them, which relate to the specific nutritional problem(s) and/or need(s) of the target population identified under Criterion I;

(2) Goals and objectives that speak to the(se) problem(s) and/or need(s); and

(3) Project activities that, if successfully carried out, can reasonably be expected to result in achieving these goals and objectives.

Evaluation Criterion 3: Results or Benefits Expected

Element III. Significant and Beneficial Impact (0–30 Points)

Sub-Element III(a) Improvement in Nutrition Services to Low-Income People (0 to 15 Points)

Applicants shall address how they propose to significantly improve or increase nutrition services to low-income people and indicate how such improvements or increases are quantified.

Sub-Element III(b) Promotional Health and Social Service Activities Included in Nutrition Services (0 to 5 Points)

Applicant incorporates into the project awareness of health and social services activities for low-income people along with nutritional services.

Sub-Element III(c) Commitment of Resources (0 to 5 Points)

Applicant indicates that the project will significantly leverage or mobilize other community resources. These resources are detailed and quantified.

Sub-Element III(d) One Time Funding (0 to 5 Points)

Applicant demonstrates either that the project addresses problem(s) that can be resolved by one-time OCS funding, or demonstrates that non-Federal funding is available to continue the project without Federal support.

In addressing the above criterion, the applicant must include quantitative data for items (a),(b), and (c), and discuss how the beneficial impact relates to the relevant legislatively-mandated program activities identified in Part II and the problems and/or needs described under Criterion I.

Evaluation Criterion 4: Approach II

Element IV. Coordination/Services Integration (0 to 15 Points)

Sub-Element IV (a) Coordinated Community-Based Planning (0 to 10 Points)

Application demonstrates evidence of coordinated community-based planning in its development, including strategies in the work program to collaborate with other locally-funded Federal programs (such as DHHS health and social

services and USDA Food and Consumer Service programs) in ways that will eliminate duplication and will, for example: (1) unite funding streams at the local level to increase program outreach and effectiveness; (2) facilitate access to other needed social services by coordinating and simplifying intake and eligibility certification processes for clients; or (3) bring project participants into direct interaction with holistic family development resources in the community where needed.

Sub-Element IV (b) Community Empowerment Consideration (0 to 5 Points)

Special consideration will be given to applicants located in areas characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20 percent, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and high levels of incidences of violence, gang activity, crime, or drug use. Applicants should document their involvement in preparing and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner.

If the applicant is receiving funds from the State for community food and nutrition activities, the applicant should address how the funds are being utilized, and how they will be coordinated with the proposed project to maximize the effectiveness of both. If State funds are being used in the project for which OCS funds are being requested, their usage should be specifically described.

Evaluation Criterion 5: Organizational Profiles

Element V. Organizational Experience and Administrative Capability (0 to 15 Points)

Sub-Element V(a). Organizational Experience in Program Area (0–5 Points)

The applicant should document the organization's capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. Documentation provided should indicate that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population. Organizations proposing training and technical assistance should have detailed competence in the program area and expertise in training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

Sub-Element V(b). Management History (0–5 Points)

Applicants must demonstrate their ability to implement sound and effective management practices. If they have been recipients of other Federal or other governmental grants, they must also document their compliance with financial and program progress reporting and audit requirements. Such documentation may be in the form of references to any available audit or progress reports and should be accompanied by a statement from a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

Sub-Element V(c). Staff Skills, Resources and Responsibilities (0–5 Points)

The application should adequately describe the experience and skills of the proposed Project Director, showing that the individual is not only well qualified, but that his/her professional capabilities are relevant to successfully implement the project. If the key staff person has not yet been identified, the application contains a comprehensive position description indicating that the responsibilities to be assigned to the project director are relevant to successfully implement the project. The application must indicate that the applicant has adequate facilities and resources (i.e. space and equipment) to carry out the work plan successfully.

In addressing the above criterion, the applicant must clearly show that sufficient time of the Project Director and other senior staff will be budgeted to assure timely project implementation and oversight and that the assigned responsibilities of the staff are appropriate to the tasks identified.

Evaluation Criterion 6: Budget and Budget Justification

Element VI. Appropriateness of Budget (0 to 5 Points)

Every application must include a Budget Justification, placed after the budget forms SF 424 and 424A, explaining the sources and uses of project funds. The budget is adequate and administrative costs are appropriate to the services proposed.

Part IV. Application Procedures

A. Application Development/ Availability of Forms

To be considered for a grant under this program announcement, an application must conform to the Program Requirements set out in Part II and be prepared in accordance with the guidelines set out in Part III. It must be submitted on the forms supplied in the attachments to this Announcement and in the manner prescribed below. Attachments A through K contain all standard forms necessary to apply for awards under this OCS program. These attachments and Parts V and VI of this Announcement contain all the general instructions required for submitting applications.

Additional copies may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT:** at the beginning of this announcement. In addition, this Announcement is accessible on the Internet through the OCS Website for reading or downloading at: *http://www.acf.dhhs.gov/programs/ocs/kits1.htm* under ''Funding Opportunities.''

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace, the Certification Regarding environmental tobacco smoke, and debarment regulations set forth in Attachments E, J, and F.

PART III contains instructions for the substance and development of the project narrative. PART V contains instructions for completing application forms. PART VI, Section A, describes the contents and format of the application as a whole.

B. Application Submission

1. Number of Copies Required. One signed original application and two copies must be submitted at the time of initial submission. (OMB 0970–0139). Two additional optional copies would be appreciated to facilitate the processing of applications.

2. Closing Date. The closing date for submitting applications is July 8, 2002. Applications postmarked after the closing date will be classified as late.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m. EST at the Community Food and Nutrition Program Operations Center: 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209 between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/

overnight mail services do not always deliver as agreed.)

Mailing Address: Applications must be mailed to Community Food and Nutrition Program Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Attention: Application for Community Food and Nutrition Program.

Applicants must ensure that a legibly dated U.S. Postal Service postmark, or a legibly dated machine produced postmark of a commercial mail service, or an official dated receipt of an overnight/express delivery service, is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service or receipt from an overnight/ express delivery service company must include the logo/emblem of the company and must reflect the date the package was received by the company from the applicant. *Private Metered postmarks shall not be acceptable as proof of timely mailing.*

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. Late Applications. Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

4. Extension of Deadlines. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rest with ACF's Chief Grants Management Officer.

C. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-seven jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or indicate ''not applicable'' if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 370 L'Enfant Promenade, S.W., 4th floor East, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G to this Announcement.

D. Initial OCS Screening

Each application submitted under this program announcement will undergo a pre-review to determine that the application was postmarked by the closing date and submitted in accordance with the instructions in this Announcement.

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all Applicants except as noted:

(1) The application must contain a signed Standard Form 424 Application for Federal Assistance'' (SF–424), Attachment B, a budget (SF–424A), Attachment C, and signed ''Assurances'' (SF 424B), Attachment D, completed according to instructions published in Part V and Attachments A, B, and C of this Program Announcement. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. Applicant must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(2) A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be no more than 30 letter-size pages, numbered consecutively , and typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (c.p.i.) or equivalent. Applications with project narratives (excluding Project Summaries and appendices) of more than 30 letter-size pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding.

The budget narrative, charts, exhibits, resumes, position descriptions, letters of support or commitment are not counted against this page limit and should be in the Appendix. It is strongly recommended that applicants adopt for their program project narratives the sequence and content described in part III, section I.

(3) Application must contain documentation of the applicant's tax exempt status as required under PART II, Section C.

Applicants are strongly encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal. [See PART E]

E. Consideration of Applications

Applications which pass the initial OCS screening will be reviewed and rated by an independent review panel on the basis of the Program Elements and Review Criteria set forth in PART III. These review criteria were designed to assess the quality of a proposed project and determine the likelihood of its success. The review criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the program elements and review

criteria within the context of this Program Announcement.

Reviewers' scores will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding because other factors are taken into consideration. These include, but are not limited to: the timely and proper completion by applicant of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance on previous OCS or other Federal agency grants.

Applicants may omit from the application the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

Part V. Instructions for Completing Forms SF 424

All application forms are now available on the ACF website for downloading: http://www.acf.dhhs.gov/programs/ofs/forms.htm.

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments B,C and D) as modified by the instructions set forth in PART III. above, and the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. (Note: The Budget detail and Narrative Budget Justification should follow the SF 424 and 424A, and are not counted as part of the Project Narrative.)

A. SF–424—Application for Federal Assistance (Attachment B)

Where the applicant is a previous DHHS grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. If applicant Is an Indian Tribe enter ''K'' in the box. If applicant is a non-profit organization enter ''N'' in the box.

Item 9. Name of Federal Agency—Enter DHHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.571. The title is ''Community Food and Nutrition Program (CFNP).''

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

Use Priority Area 1.0 for General Projects.

Item 13. Proposed Project Dates—Show 12-month project period. (See Part II) In addition, the project start date must begin on or before September 30, 2002; the ending date should be calculated on the basis of a 12-month Project Period.

Item 14. Congressional District of Applicant/Project—Enter the number(s) of the Congressional District where the applicant's principal office is located and the number(s) of the Congressional District(s) where the project will be located.

Item 15. Estimated Funding—Item 15a. Show the total amount requested for the entire project period; Item 15b-e. For each line item, show both cash and third party in-kind contributions for the total project period; Item 15f. Show the estimated amount of program income for the total project period; Item 15g. Enter the sum of all the line items.

B. SF–424A—Budget Information—Non-Construction Programs (Attachment C)

In completing these sections, the Federal Funds budget entries will relate to the requested OCS Community Food and Nutrition Program funds only, and Non-Federal will include funds mobilized from all other sources—applicant, state, local, and other. Federal funds other than those requested from the Community Food and Nutrition Program should be included in *Non-Federal* entries.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and *non-Federal* mobilized funds.

Section A—Budget Summary

Lines 1—4

Column (a) Line 1—Enter OCS CFNP
Column (b) Line 1—Enter 93.571
Columns (c) and (d)—Not Applicable
Columns (e), (f) and (g)—Line 1—Enter appropriate amounts needed to support the project for the entire project period.

Line 5

Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period of 12 months will be entered in Column (1).

Allocability of costs is governed by applicable cost principles set forth in the Code of Federal Regulations (CFR), Title 45, parts 74 and 92.

Budget estimates for administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect estimation methods, quantities, unit costs salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class other, identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives; large dollar amounts; local, regional, or other travel; new positions; major equipment purchases; and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Line 6a

Personnel—Enter the total costs of salaries and wages.

Justification—Identify the project director and staff. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Line 6b

Fringe Benefits—Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on Line 6j.

Justification—Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Line 6c

Travel—Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification—Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances. Traveler must be a person listed under the personnel line or employee being paid under non-Federal share. (Note: Local transportation and consultant travel costs are entered on Line 6h.)

Line 6d

Equipment—Enter the total costs of all equipment to be acquired by the project. Equipment means an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) $5,000. [Note: If an applicant's current rate agreement was based on another definition for equipment, such as ''tangible personal property $500 or more,'' the applicant shall use the definition used by the cognizant agency in determining the rate(s). However, consistent with the applicant's equipment policy, lower limits may be set.]

Justification—Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its sub-grantees must not already have the equipment or a reasonable facsimile available to the project.

Line 6e

Supplies—Enter the total costs of all tangible personal property other than that included on line 6d.

Justification—Provide a general description of what is being purchased such as type of supplies (office, classroom, medical, etc.). Include equipment costing less than $5,000 per item.

Line 6f

Contractual—Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) currently set at $100,000. Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Line 6g

Construction—Not applicable.

Line 6h

Other—Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (non-contractual); fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use training costs including tuition and stipends; training service costs including wage payments to individuals and supportive service payments; and staff development costs.

Line 6j

Indirect Charges—Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by DHHS or other Federal agencies.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should, immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates and submit it to the appropriate DHHS Regional Office. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot also be budgeted or charged as direct costs to the grant. Indirect costs consistent with approved indirect cost rate agreements are allowable. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Line 6k

Totals—Enter the total amount of Lines 6i and 6j.

Line 7

Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification—Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of non-Federal resources that will be used to support the project. Non-Federal resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (see SF–424A, Section B.6) and whether it is cash or third party in-kind. The firm commitment of these required

funds must be documented and submitted with the application in order to be given credit in the criterion.

This documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8

Column (a)—Enter the project title.
Column (b)—Enter the amount of cash or donations to be made by the applicant.
Column (c)—Enter the State contribution.
Column (d)—Enter the amount of cash and third party in-kind contributions to be made from all other sources.
Column (e)—Enter the total of columns (b), (c), and (d).

Lines 9, 10 and 11

Leave Blank.

Line 12

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification—Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs

Line 13

Federal—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the 12-month budget period.

Line 14

Non-Federal—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15

Totals—Enter the total of Lines 13 and 14.

Section F—Other Budget Information

Line 21

Direct Charges—Include narrative justification required under Section B for each object class category for the total project period.

Line 22

Indirect Charges—Enter the type of DHHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement.

Line 23

Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

C. SF–424B—Assurances Non-Construction Programs (Attachment D)

All applicants must sign and return the ''Assurances'' with the application.

Part VI. Contents of Application and Receipt Process

A. Contents of Application

Each CFNP application must include all of the following, in the order listed below:

1. Table of Contents

2. An abstract of the Proposed Project—very brief, not to exceed 250 words, that would be suitable for use in an announcement that the application has been selected for a grant award and which identifies the type of project, the target population, and the major elements of the work plan.

3. A completed Standard Form 424 that has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally. (Attachment B)

4. Budget Information-Non-Construction Programs (SF–424A) (Attachment C);

5. A narrative budget justification for each object class category required under Section B, SF–424A.

6. Certification and Assurances Required: Applicants requesting financial assistance for a non-construction project must sign and return Standard Form 424B, ''Assurances: Non-Construction Programs'' with their applications. (See Attachment D)

Applicants must provide a Certification Regarding Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their application. (See Attachment H)

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. (See Attachment E)

Applicant must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. (See Attachment F)

Applicants must make the appropriate certification of their compliance with all Federal statues relating to nondiscrimination. By signing and submitting the applications, applicants are providing the certification and need not mail back a certification form.

Applicants must make the appropriate certification of their compliance with the requirements of the Pro-Children Act of 1994 as outlined in Certification Regarding Environmental Tobacco Smoke. (See Attachment J)

7. A Project Narrative of no more than 30 pages consisting of the Elements described in Part III of this announcement set forth in the order therein presented and preceded by a consecutively numbered table of contents.

The total number of pages for the narrative portion of the application package must not exceed 30 pages. (See Part IV.D.2 for pages that do not count against the 30-page limit).

8. Appendices—proof of nonprofit tax-exempt status as outlined in Part II, Section C; Single Point of Contact comments, if applicable, and resumes and position descriptions.

Pages should be numbered sequentially throughout, including appendices, beginning with the Abstract as page 1.

B. Application Format

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8–½ x 11 inch paper only. Applicants must not include colored, oversized or folded materials. Applicants should not include organizational brochures or other promotional materials, slides, films, clips, etc. Such material will be discarded if included.

Applications must be bound or enclosed in loose-leaf binder notebooks. Preferably, applications should be two-holed punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip.

C. Acknowledgment of Receipt

All applicants will receive an acknowledgment with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their Application, or a FAX number or e-mail address which can be used for acknowledgment. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the

Application. If an acknowledgment is not received within three weeks after the deadline date, please notify the OCS Operations Center at 1–800–281–9519.

Part VII. Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which specifies the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award.

B. Reporting Requirements

Grantees will be required to submit semi-annual program progress and financial reports (SF 269) as well as a final progress and financial report.

C. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR Part 74 (non-profit organizations) or Part 92 (governmental entities) which require audits under OMB Circular A–133.

D. Prohibitions and Requirements With Regard To Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or sub-grantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or sub-grantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification.

The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H, for certification and disclosure forms to be submitted with the applications for this program.

E. Applicable Federal Regulations

Attachment K indicates the regulations which apply to all applicants/grantees under the Community Food and Nutrition Program.

Dated: April 19, 2002.

Clarence H. Carter,

Director, Office of Community Services.

List of Attachments

A. 2002 Poverty Income Guidelines.

B. Standard Form 424, Application for Federal Assistance.

C. Standard Form 424A, Budget Information—Non-Construction Programs.

D. Standard Form 424B, Assurances—Non-Construction Programs.

E. Certification Regarding Drug-Free Workplace Requirements.

F. Certification Regarding Debarment, Suspension And Other Responsibility Matters.

G. Intergovernmental Review State Single Point Of Contact (SPOC) List.

H. Certification Regarding Lobbying and Disclosure Of Lobbying Activities, Standard Form LLL.

I. Applicant's Checklist.

J. Certification Regarding Environmental Tobacco Smoke.

K. DHHS Regulations Applying To All Applicants/Grantees Under The Community Food and Nutrition Program (CFNP).

Attachment A

2002 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$8,860
2	11,940
3	15,020
4	18,100
5	21,180
6	24,260
7	27,340
8	30,420

Note.—For family units with more than 8 members, add $3,080 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$11,080
2	14,930
3	18,780
4	22,630
5	26,480
6	30,330
7	34,180
8	38,030

Note.—For family units with more than 8 members, add $3,850 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$10,200
2	13,740
3	17,280
4	20,820
5	24,360
6	27,900
7	31,440
8	34,180

Note.—For family units with more than 8 members, add $3,080 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

BILLING CODE 7590–01–M

Attachment B, Page 1

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code)*:

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*:

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424 **Attachment B, Page 2**

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF-424 (Rev. 7-97) Back

ATTACHMENT C, Page 1

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

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ATTACHMENT C, Page 2

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

Attachment C.—Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g).

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Column (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5) Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and spruce of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Line 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). That section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D.—Assurances—Nonconstruction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representatives of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard of agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standard for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501—1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874, and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327—333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of viiolating facilities pursuant to EO 11738; (c) protection of wetland pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Costal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 49a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Attachment E.—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be

identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment F.—Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily

excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause tied ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transactions knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receive stolen property;

(c) Are not presently indicated for or otherwise criminally or civility charged by a government entity (Federal, State, local) with commission of any other the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall now knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by clause.

The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pressure available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment G.—Intergovernmental Review (SPOC List)

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below.

States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore not have a SPOC. If you are located within one of these States, you may still send application materials directly to a federal awarding agency.

Contact information for Federal agencies that award grants can be found in Appendix

IV of the Catalog of Federal Domestic Assistance.

Arkansas

Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206, tlcopeland@dfa.state.ar.us

California

Grants Coordination, State Clearinghouse, Office of Planning and Research, P.O. Box 3044, Room 222, Sacramento, California 95812–3044, Telephone: (916) 445–0613, Fax: (916) 323–3018, state.clearinghouse@opr.ca.gov

Delaware

Charles H. Hopkins, Executive Department, Office of the Budget, 540 S. Dupont Highway, 3rd Floor, Dover, Delaware 19901, Telephone; (303) 739–3323, Fax: (302) 739–5661, chopkins@state.de.us

District of Columbia

Luisa Montero-Diaz, Office of Partnerships and Grants, Development, Executive Office of the Mayor, District of Columbia Government, 441 4th Street, NW, Suite 530 South, Washington, DC 20001, Telephone: (202) 727–8900, Fax: (202) 727–1652, opgd.eom@dc.gov

Florida

Jasmin Raffington, Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, Fax: (850) 414–0479, clearinghouse@dca.state.fl.us

Georgia

Georgia State Clearinghouse, 270 Washington Street, SW, Atlanta, Georgia 30334, Telephone: (404) 656–3855, Fax: (404) 656–7901, gach@mail.opb.state.ga.us

Illinois

Virginia Bova, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, Fax (312) 814–8485, vbova@commerce.state.il.us

Iowa

Steven R. McCann, Division of Community and Rural Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4809, steve.mccann@ided.state.ia.us

Kentucky

Ron Cook, Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Telephone: (502) 573–2382, Fax: (502) 573–2512, ron.cook@mail.state.ky.us

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, (207) 287–1461 (direct), Fax: (207) 287–6489, joyce.benson@state.me.us

Maryland

Linda Janey, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 West Preston Street—Room 1104, Baltimore, Maryland 21201–2305, Telephone: (410) 767–4490, Fax: (410) 767–4480, linda@mail.op.state.md.us

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 535 Griswold, Suite 300, Detroit, Michigan 48226, Telephone (313) 916–4266, Fax: (313) 961–4869, pfaff@semcog.org

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 1301 Woolfolk Building, Suite E, 501 North West Street, Jackson, Mississippi 39201, Telephone: (601) 359–6762, Fax: (601) 359–6758

Missouri

Angela Boessen, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Truman Building, Room 840, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, Fax: (573) 522–4395, igr@mail.oa.state.mo.us

Nevada

Heather Elliott, Department of Administration, State Clearinghouse, 209 E. Musser Street, Room 200, Carson City, Nevada 89701, Telephone: (775) 684–0209, Fax: (775) 684–0260, helliott@govmail.state.nv.us

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2-½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, Fax: (603) 271–1728, jtaylor@osp.state.nh.us

New Mexico

Ken Hughes, Local Government Division, Room 201 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–4370, Fax: (505) 827–4948, khughes@dfa.state.nm.us

North Carolina

Jeanette Furney, Department of Administration, 1302 Mail Service Center, Raleigh, North Carolina 27699–1302, Telephone: (919) 807–2323, Fax: (919) 733–9571, jeanette.furney@ncmail.net

North Dakota

Jim Boyd, Division of Community Services, 600 East Boulevard Ave, Dept 105, Bismarck, North Dakota 58505–0170, Telephone: (701) 328–2094, Fax: (701) 328–2308, jboyd@state.nd.us

Rhode Island

Kevin Nelson, Department of Administration, Statewide Planning Program, One Capitol Hill, Providence, Rhode Island 02908–5870, Telephone: (401) 222–2093, Fax: (401) 222–2083, knelson@doa.state.ri.us

South Carolina

Omeagia Burgess, Budget and Control Board, Office of State Budget, 1122 Ladies Street, 12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, Fax: (803) 734–0645, aburgess@budget.state.sc.us

Texas

Denise S. Francis, Director State Grants Team, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 305–9415, Fax: (512) 936–2681, dfrancis@governor.state.tx.us

Utah

Carolyn Wright, Utah State Clearinghouse, Governor's Office of Planning and Budget, State Capitol, Room 114, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, Fax: (801) 538–1547, cwright@gov.state.ut.us

West Virginia

Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, Fax; (304) 558–3248, fcutlip@wvdo.org

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, Fax: (608) 267–6931, jeffrey.smith@doa.state.wi.us

American Samoa

Pat M. Galea'i, Federal Grants/Programs Coordinator, Office of Federal Programs, Office of the Governor/Department of Commerce, American Samoa Government, Pago Pago, American Samoa 96799, Telephone: (684) 633–5155, Fax: (684) 633–4195, pmgaleai@samoatelco.com

Guam

Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, Fax: 011–472–2825, jer@ns.gov.gu

Puerto Rico

Jose Caballero/Mayra Silva, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 723–6190, Fax: (787) 722–6783

Attachment H.—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal

loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–M

Attachment H, Page 2

Approved by OMB
0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount,** *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF–LLL–A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal Action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If that is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subaward, e.g., the first subaward of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''subawardee'', then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 [e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency]. Include prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 and 5.

10. (a) Enter the full name, address, city, state and zip cod of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Reporting Entity

Page

of

BILLING CODE 4184–01–P

ATTACHMENT I

APPLICANT'S CHECKLIST

This checklist will assist you with preparing and assembling your application. Completing the checklist can help ensure that you do not omit key information. Because this checklist is used by many ACF programs, some of the information might not apply to your application. This checklist DOES NOT have to be completed and returned with your application.

	Yes	Included	N/A
Authorizing official read and understood Certification Regarding Debarment, Suspension, and Other Responsibility Matters?			
Authorizing official read and understood Certification Regarding Drug-Free Workplace Requirements--Grantees Other Than Individuals?			
Authorizing official read and understood Certification Regarding Environmental Tobacco Smoke?			
Application for Federal Assistance (SF 424) was completed? Proper Signature and Date for Line 18?			
Budget Information--Non-Construction Programs (SF 424A) or Budget Information--Construction Programs (SF 424C) was completed?			
Assurances-- Non-Construction Programs (SF 424B) or Assurances--Construction Programs (SF 424D) was completed? (Proper Signature and Date?)			
Certification Regarding Lobbying was completed? (Proper Signature and Date?)			
Disclosure of Lobbying Activities was completed? (Proper Signature and Date?)			
Other special certifications, assurances, and/or disclosures required under the program were completed (e.g., maintenance of effort certification)?			
Proof of nonprofit status was provided?			
Has additional information such as biographical sketch(es) with job description(s) and other additional information been attached, when required?			
For a Supplemental application, does the detailed budget only address the additional funds requested?			
Checked all budget computations for accuracy?			

FOLLOW-UP QUESTIONS

	YES	N/A
On the Application for Federal Assistance (SF 424),		
⇒ did you enter the application number issued by the sponsoring ACF office in the "Federal Identifier" block?		
⇒ did you type the 12 digit Payee EIN or PIN previously assigned to your organization by DHHS in the "Federal Identifier" block?		
⇒ is the EIN in Item #6 assigned to the organization and organizational unit named in Item #5?		
⇒ did you include city, county, state and zip code of the applicant did organization in Item #5?		
⇒ has the appropriate box been checked in Item #16?		
⇒ has the entire proposed project period been identified in Item #13?		
On the Budget Information form (SF 424A or SF 424C),		
⇒ do the totals in Section B match the totals provided in the budget and budget narrative?		

SUGGESTED ORDERING OF APPLICATION MATERIALS

FRONT MATTER			STANDARD APPLICATION FORMS			PROJECT DESCRIPTION	DISCLOSURES CERTIFICATIONS			END MATTER
COVER LETTER	Table of Contents	Project Abstract (executive summary)	SF 424	SF 424A or SF 424C	SF 424B or SF 424D	Project Description	Certification regarding lobbying	Disclosure of lobbying activities	other Assurances and Certs	appendix resumes, letters of support, maps, etc.

BILLING CODE 4184–01–C

Attachment J.—Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment K.—

Title 45 of the Code of Federal Regulations

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants and subgrants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination—Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act Of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Section 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

[FR Doc. 02–11217 Filed 5–6–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02F–0181]

Safe Foods Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Safe Foods Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of cetylpyridinium chloride as an antimicrobial agent in poultry processing.

DATES: DATES: Submit written comments on the petitioner's environmental assessment by June 6, 2002.

ADDRESSES: Submit written comments 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.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3071.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2A4736) has been filed by Safe Foods Corp., c/o Keller and Heckman LLP, 1001 G St. NW., Washington, DC 20001. The petition proposes to amend the food additive regulations in part 173 Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR part 173) to provide for the safe use of cetylpyridinium chloride as an antimicrobial agent in poultry processing.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (see **ADDRESSES**) for public review and comment. Interested persons may submit to the Dockets Management Branch written comments by June 6, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: April 11, 2002.

Laura M. Tarantino,

Acting Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 02–11255 Filed 5–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01P–0315]

Determination That Acetaminophen and Codeine Phosphate Tablets, 500 Milligrams (mg)/15 mg, 500 mg/30 mg, and 500 mg/60 mg, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its determination that acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for acetaminophen and codeine phosphate

tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg.

FOR FURTHER INFORMATION CONTACT: Carol E. Drew, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is typically a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

There are no NDAs for acetaminophen and codeine phosphate tablets. The initial acetaminophen/codeine combination drug product was accepted as an ANDA based on a **Federal Register** notice finding TRIGESIC with codeine to be effective for the relief of mild to moderate pain. (See 38 FR 3210, February 2, 1973.) FDA made this effectiveness determination under the 1962 amendments to the act, which required a demonstration of the effectiveness of new drugs, including those approved prior to 1962. FDA contracted with the National Academy of Science/National Research Council to carry out the Drug Efficacy Study assessing the evidence of effectiveness available for new drugs approved prior to 1962. TRIGESIC with codeine contained codeine, acetaminophen, aspirin, and caffeine. The initial ANDA for acetaminophen and codeine tablets was considered to be similar and related to TRIGESIC with codeine tablets, and therefore was accepted as an ANDA.

Roxane Laboratories (Roxane) filed a suitability petition (86P–0161/CP) on April 14, 1986, requesting permission to file ANDAs for three different strengths of acetaminophen and codeine phosphate tablets. Its suitability petition was approved on May 8, 1986. Roxane's acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, are the subject of ANDAs 89–511, 89–512, and 89–513, respectively. FDA approved ANDAs 89–511, 89–512, and 89–513, held by Roxane, on April 24, 1989, at which time they became ''listed drugs'' within the meaning of 21 CFR 314.3. On October 23, 1997, Roxane requested withdrawal of approval of ANDAs 89–511, 89–512, and 89–513. FDA withdrew approval of these ANDAs on June 11, 1998.

On July 23, 2001, Aspire Pharmaceuticals, Inc., submitted a citizen petition (Docket No. 01P–0315/CP1) under 21 CFR 10.30 to FDA requesting that the agency determine whether Roxane's acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, were withdrawn from sale for reasons of safety or effectiveness.

The agency has determined that Roxane's acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, were not withdrawn from sale for reasons of safety or effectiveness. Two grounds support the agency's finding. First, there are drug products with a combination of acetaminophen and codeine phosphate being marketed today with greater than 500 mg of acetaminophen. Second, when FDA's Center for Drug Evaluation and Research Suitability Petition Committee first considered Roxane's suitability petition for its acetaminophen and codeine phosphate drug products, it concluded that the drug products did not need any safety or efficacy studies to support their approval because the proposed change in strength of the acetaminophen component fell within acceptable limits established by the Monograph for Over-the-Counter Internal Analgesic, Antipyretic, and Antirheumatic Drug Products.

After considering the citizen petition and reviewing its records, FDA determines that, for the reasons outlined previously in this document, Roxane's acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been withdrawn from marketing for reasons other than safety or effectiveness. ANDAs that refer to acetaminophen and codeine phosphate tablets, 500 mg/15 mg, 500 mg/30 mg, and 500 mg/60 mg, may be approved by the agency .

Dated: April 29, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–11206 Filed 5–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Comparability Studies for Human Plasma-Derived Therapeutics; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop, cosponsored with the Plasma Protein Therapeutics Association (PPTA), entitled ''Comparability Studies for Human Plasma-Derived Therapeutics.'' The workshop will discuss current guidance, critical issues, and approaches for establishing the comparability of human plasma derivatives in order to support changes in manufacturing processes, equipment, or facilities.

Date and Time: The public workshop will be held on May 30, 2002, from 8 a.m. to 5:30 p.m., and on May 31, 2002, from 9 a.m. to 12 noon.

Location: The workshop will be held at the Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact: HelmsBriscoe Resource One, 12530 Browns Ferry Rd., Herndon, VA

20170, 703–421–5826, FAX 703–444–1737.

Registration: Preregistration is recommended on or before May 29, 2002. Onsite registration will be done on a space-available basis on both days of the workshop, beginning at 7:30 a.m. You may obtain registration forms and information about registration fees from HelmsBriscoe Resource One (see the *Contact* section of this document) or from Joseph Wilczek, Project Manager, at wilczek@cber.fda.gov. Mail or fax your registration information and registration fee to HelmsBriscoe Resource One by May 29, 2002.

If you need special accommodations due to a disability, please contact HelmsBriscoe Resource One at least 7 days in advance.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The public workshop transcript will also be available on the Internet at http://www.fda.gov/cber/minutes/workshop-min.htm.

SUPPLEMENTARY INFORMATION: FDA and PPTA are jointly cosponsoring a public workshop on comparability studies for human plasma-derived therapeutics. The workshop will discuss critical issues and approaches for establishing the comparability of human plasma derivatives for supporting changes in manufacturing processes, equipment, or facilities. On May 30, 2002, the workshop will address the three levels of comparability studies—physical/chemical characterization, preclinical studies, and clinical evaluations as they are related to manufacturing changes for a human plasma derivative, as well as information on reporting manufacturing changes, comparability protocols, and several case studies.

On May 31, 2002, the workshop will focus on issues related to comparing fractionation intermediates, a topic specific to the plasma derivative industry. FDA will present historical perspectives and current guidance on cooperative manufacturing arrangements. Industry will discuss the current status of the necessity for fractionation intermediates from sources outside of the company and the criteria for acceptance. The complexities involved in characterizing the source material, intermediates, and the drug products will be discussed. The public workshop agenda will be posted on the Internet at http://www.fda.gov/cber/whatsnew.htm.

Dated: April 29, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–11208 Filed 5–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Joint Meeting of the Nonprescription Drugs Advisory Committee and the Gastrointestinal Drugs Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Nonprescription Drugs Advisory Committee and the Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 21, 2002, from 8 a.m. to 4:30 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Sandra Titus, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or e-mail: Tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12541. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committees will consider the safety and efficacy of new drug application (NDA) 21–229, proposing over-the-counter (OTC) use of PRILOSEC1 (omeprazole magnesium), AstraZeneca LP/Procter and Gamble, for the prevention of the symptoms of frequent heartburn. The sponsor proposes a 20 milligram dose to be taken for 14 days. The background material for this meeting will be posted one working day before the meeting under the Nonprescription Drugs Advisory Committee (NDAC) on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/ac/acmenu.htm. (Click on the year 2002 and scroll down to NDAC.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 12, 2002. Oral presentations from the public will be scheduled on June 21, 2002, between approximately 8:15 a.m. and 9:15 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 12, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sandra Titus at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 29, 2002.

Linda A. Suydam,

Senior Associate Commissioner for Communications and Constituent Relations.

[FR Doc. 02–11205 Filed 5–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 2002 Competitive Application Cycle for the Radiation Exposure Screening and Education Program 93.257

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: In notice document FR Doc. 02–10634, in the issue of Tuesday, April 30, 2002, make the following correction:

On page 21257 in the third column, under section ''Funding Preferences,'' replace the first bullet (which reads

''Applicants that propose a Statewide service area.'') with the following bullet:

• Applicants that propose a Statewide service area and provide or arrange for services at multiple locations to serve a widely dispersed population so that all eligible individuals throughout the State have access to services.

Dated: April 30, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–11209 Filed 5–6–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act for the Woodcock Singing Ground Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service will submit the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: We will accept comments until July 8, 2002.

ADDRESSES: Send your comments and suggestions on the requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street, NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703) 358–2287, or electronically to *rmullin@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) plan to submit a request to OMB to renew its approval of the collection of information for the North American Woodcock Singing Ground Survey. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1018–0019.

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise [Page 7661] management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities dictate the gathering of accurate date on various characteristics of migratory bird populations. The North American Woodcock Singing Ground Survey is an essential part of the migratory bird management program. This survey is conducted annually by State and Federal conservation agencies to provide the necessary data to determine the population status of the woodcock. The information is used primarily by us to develop recommendations for hunting regulations. It is also used by us, State conservation agencies, University associates and other interested parties for various research and management projects. Without information on the population's status, we might promulgate hunting regulations that were too liberal thus causing harm to the woodcock population, or too conservative, thus unduly restricting recreational opportunities afforded by woodcock hunting.

Title: North American Woodcock Singing Ground Survey.

Approval Number: 1018–0019.

Service Form Number: 3–156.

Frequency of Collection: Annually.

Description of Respondents: State, local, tribal, provincial, or Federal employees.

Total Annual Burden Hours: The reporting burden is estimated to average 0.67 hours per respondent. With an estimated 40% entering data electronically, the reporting burden is estimated to average 0.75 hours per respondent. The Total Annual Burden hours is 527 hours.

Total Annual Responses: About 750 individuals are expected to participate in the survey.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: April 23, 2002.

Rebecca A. Mullin,

Information Collection Officer, Fish and Wildlife Service.

[FR Doc. 02–11317 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act Mourning Dove Call Count Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service will submit the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: We accept comments until July 8, 2002.

ADDRESSES: Send your comments on the requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 222–ARLSQ, 1849 C Street NW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703) 358–2287, and electronically to *rmullin@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB)

regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) plan to submit a request to OMB to renew its approval of the collection of information for the Mourning Dove Call-Count Survey. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1018–0010.

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for the wise management of migratory bird populations frequenting the United States and for the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well being. These responsibilities dictate the gathering of accurate data on various characteristics of migratory bird populations. The Mourning Dove Call-Count Survey is an essential part of the migratory bird management program. The survey is a cooperative effort between us and State wildlife agencies. It is conducted each spring by State and Service biologists to provide the necessary data to determine the population status of the mourning dove. The survey results are then used to help guide us and the States in the annual promulgation of regulations for hunting mourning doves. Survey data are also used to plan and evaluate dove management programs and provide specific information necessary for dove research. If this survey were not used, there would be no way to determine the population status of mourning doves prior to setting regulations.

Title: Mourning Dove Call-Count Survey.

Approval Number: 1018–0010.

Service Form Number: 3–159.

Frequency of Collection: Annually.

Description of Respondents: State, local, tribal, provincial, or Federal employees.

Total Annual Burden Hours: The reporting burden is estimated to average 2.5 hours per respondent. With an estimated 50% entering data electronically, the reporting burden is estimated to average 2.6 hours per respondent. The Total Annual Burden hours is 2,698 hours.

Total Annual Responses: About 1,062 individuals are expected to participate in the survey.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of our migratory bird management functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: April 23, 2002.

Rebecca A. Mullin,

Information Collection Officer, Fish and Wildlife Service.

[FR Doc. 02–11318 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Applications for Permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by June 6, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: John R. Hollenbeck, Spring Lake, MI, PRT–055700.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

Applicant: Bowmanville Zoological Park, Ontario, Canada, PRT-805163.

The applicant requests the re-issuance of its permit to export, re-export, and re-import ring-tailed lemurs (*Lemur catta*), and Bengal tigers (*Panthera tigris tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Bowmanville Zoological Park, Ontario, Canada, PRT-055508.

The applicant requests a permit to export, re-export, and re-import Asian elephants (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: H & L Sales, Patio Ranch, San Antonio, TX, PRT–704025.

The applicant request amendment of their permit to authorize interstate and foreign commerce, export and cull of excess animals for the Arabian oryx (*Oryx leucoryx*) from their captive herd for the purpose of enhancement of the survival of the species. This notice covers activities conducted by the applicant for a period of five years. Permittee must apply for renewal annually.

Marine Mammals

The public is invited to comment on the following application(s) for a permit

to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Thomas P. Bruner, Sawyer, ND, PRT–055566.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada, for personal use.

Truman D. Wade, Elverson, PA, PRT–055298.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

Jeffrey Stohr, Claremont, SD, PRT–055673.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: April 19, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–11282 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

DATES: Written comments on these permit applications must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW, Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

SUPPLEMENTARY INFORMATION:

[Permit No. TE–054791]

Applicant: Bryce Marshall, Flagstaff, Arizona.

Applicant requests permit for recovery purposes to conduct presence/absence and monitoring surveys within Arizona for the following species: Mexican long-nosed bat (*Leptonycteris nivalis*), lesser long-nosed bat (*Leptonycteris curasoae (=sanborni) yerbabuenae*), southwestern willow flycatcher (*Empidonax traillii extimus*), and cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*). In addition, applicant requests same permit to allow presence/absence surveys for the Mexican spotted owl (*Strix occidentalis lucida*) within Arizona and Utah.

[Permit No. TE–054802]

Applicant: Tony Adkins, Durango, Colorado.

Applicant requests permit for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (Empidonax traillii extimus) within Arizona, New Mexico, Colorado, Utah, and California.

[Permit No. TE–054803]

Applicant: Michael Larisch, El Paso, Texas.

Applicant requests permit for recovery purposes to conduct presence/absence surveys and nest monitoring for the northern aplomado falcon (*Falco femoralis septentrionalis*) within New Mexico.

[Permit No. TE–054804]

Applicant: Andrew C. Kasner, College Station, Texas.

Applicant requests permit for recovery purposes to conduct presence/absence and monitoring surveys for the interior least tern (*Sterna antillarum*) within Texas.

[Permit No. TE–054844]

Applicant: ALL Consulting, Edwardsville, Illinois.

Applicant requests permit for recovery purposes to conduct presence/absence and monitoring surveys and habitat identification for the interior least tern (*Sterna antillarum*) along the Red River within Texas, Oklahoma, and Arkansas.

[Permit No. TE–055006]

Applicant: ENSR International, Houston, Texas.

Applicant requests permit for recovery purposes to conduct presence/absence surveys for the golden-cheeked warbler (*Dendroica chrysoparia*) and black-capped vireo (*Vireo atricapillus*) within Texas.

Stephen C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–11250 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian Education Programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are the Office of Indian Education Programs' proposed State Plan for Implementing the No Child Left Behind Act of 2001, the Proposed Coordinated Services Plan for the BIA-OIEP Special Education Program and Negotiated Rulemaking under The Native American Education Improvement Act of 2001. Participants will be able to suggest other items for comment.

DATES: Comments are due on or before June 28, 2002. The meeting dates will be June 17 through 20, 2002 for all locations listed. All meetings will begin at 9:00 a.m. and continue until 3:00 p.m. (Local time) or until all meeting participants have an opportunity to make comments.

ADDRESSES: Send or hand-deliver written comments to William Mehojah, Jr., Director, Office of Indian Education Programs, Bureau of Indian Affairs, MS Room 3512-MIB, 1849 C St., NW., Washington, DC 20240. Submissions by facsimile should be sent to (202) 273–0030.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Whitehorn at (202) 208–4976.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the OIEP/BIA since 1990.

The purpose of the consultation, as required by 25 U.S.C. 2011(b), is to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA on Indian education programs.

MEETING SCHEDULE

Dates	Location	Local Contact	Phone Number
June 17, 2002	Albuquerque, NM	Benjamin Atencio	(505) 346–2431
June 18, 2002	Billings, MT	LaVonne French	(406) 247–7953
June 18, 2002	Window Rock, AZ	Bea Woodward	(505) 786–6150
June 18, 2002	San Diego, CA	Fayetta Babby	(916) 978–6057
June 18, 2002	Minneapolis, MN	Terry Portra	(612) 713–4400
June 18, 2002	New Orleans, LA	LaVonna Weller	(202) 208–7952
June 18, 2002	Rapid City, SD	Norma Tibbitts	(605) 867–1306
June 19, 2002	Anchorage, AK	Robert Pringle	(907) 271–4120
June 19, 2002	Portland, OR	John Reimer	(503) 872–2743
June 19, 2002	Mesa, AZ	Kevin Skenandore	(928) 338–5441
June 20, 2002	Oklahoma City, OK	Joy Martin	(405) 605–6051

A consultation booklet for the meetings is being distributed to federally recognized Indian tribes, Bureau Regional and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons at each meeting.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the address listed under the **ADDRESSES** section during regular business hours (7:45 a.m. to 4:15 p.m. EST), Monday through Friday, except Federal holidays.

Individual respondents may request confidentiality. If you wish us to withhold your name, street address, and other contact information (such as fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: April 26, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–11269 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–02–1020–PG]

Resource Advisory Council Meeting, Butte, Montana.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene on June 10, 2002, at 9:00 a.m., at the BLM Butte Field Office, 106 North Parkmont, Butte, Montana, 59701.

Primary topics for the meeting will be updates from the RAC Subgroups on Areas of Critical Environmental Concern (ACECs) and Travel Management.

The meeting is open to the public and the public comment period is set for 11:30 a.m. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying during regular business hours. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact Marilyn Krause, Resource Advisory Council Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7617.

FOR FURTHER INFORMATION CONTACT: Richard Hotaling, Field Manager, 406–533–7600 or Marilyn Krause at the above address and telephone number.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the

BLM, on a variety of planning and management issues associated with public land management. The 15 member Council includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the Council.

Dated: March 13, 2002.

Richard M. Hotaling,

Field Manager.

[FR Doc. 02–11256 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action: Direct Sale; Mr. & Mrs. John & Candy Kalal, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management (BLM) is providing notice of a proposed sale of public land in Phillips County involving only the surface estate to Mr. and Mrs. John and Candy Kalal. The purpose of the sale of 0.829 acres directly to Mr. and Mrs. John and Candy Kalal is to resolve an unauthorized occupancy. Disposal of the public land meets criteria 1 and 3 of section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713).

SUMMARY: Mr. and Mrs. John and Candy Kalal will use the purchased land as part of their existing motel, garage and trailer court. The BLM advised state and local officials about the proposed sale. The estimated fair market value is $6,225.00. Sale of the public land will occur in May or June of 2002.

The following described public land is suitable for sale under criteria 1 and 3 of section 203 of FLPMA of 1976 (43 U.S.C. 1713):

Principal Meridian Montana

T. 25 N., R. 25 E.,
Sec. 16, block 14 lot 1;
Sec. 17, block 6 lot 9.
Containing 0.829 acres.

DATES, COMMENTS AND PROTESTS: The effective date of this proposed sale notice is the publication date of this notice in the **Federal Register**.

Comments on the proposed sale may occur for 45 days from the date of this notice. Send comments to: Bureau of Land Management, Malta Field Office, 501 South 2nd Street East, HC 65, Box 5000, Malta, Montana 59538–0047.

The State Director will weigh adverse comments on the proposed sale and may vacate or change this notice concerning the proposed sale. Without any objections this notice will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the proposed sale and environmental assessment are available from Bruce W. Reed, Field Manager, 501 South 2nd Street East, HC 65, Box 5000, Malta, Montana 59538–0047, 406–654–5113.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public land described above from appropriation under the public land laws, including the mining laws but not from sale under Section 203 of the FLPMA of 1976. The segregation will end upon issuance of the conveyance document or 270 days from the date of publication of this notice, whichever occurs first.

The conveyance of public land is subject to:

1. A reservation of a right-of-way for ditches and canals under 43 U.S.C. 945.
2. A reservation of all Federal minerals.

Bruce W. Reed,

Malta Field Manager.

[FR Doc. 02–10702 Filed 5–6–02; 8:45 am]

BILLING CODE 4310–$$–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–415]

U.S. Trade and Investment With Sub-Saharan Africa

AGENCY: United States International Trade Commission.

ACTION: Notice of preparation of third report and opportunity to submit information and comments.

EFFECTIVE DATE: April 29, 2002.

SUMMARY: Following receipt on April 12, 2000, of a letter from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–415, U.S. Trade and Investment with Sub-Saharan Africa, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of preparing a series of five annual reports. This is the third report in the series, and the Commission plans to transmit this third report to the USTR by December 10, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Laurie-Ann Agama, Office of Economics (202–205–3220), or Mr. William Gearhart, Office of the General Counsel (202–205–3091) for information on legal aspects of the investigation. The media should contact Ms. Margaret O'Laughlin, Office of External Relations (202–l819).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202–205–1810.

Background

Pursuant to authority under section 332(g) of the Tariff Act of 1930, the USTR requested that the Commission prepare a series of annual report for five years containing the following information:

1. For the last five years (and the latest quarter available), data for U.S. merchandise trade and U.S. services trade with sub-Saharan Africa, including statistics by country, by major sectors, and by the top 25 commodities, as well as statistics on imports from sub-Saharan Africa under the GSP program by country and major product categories/commodities.

2. Country-by-country profiles of the economies of each sub-Saharan African country, including information on major trading partners, by country.

3. Sector profiles for sub-Saharan Africa, including information on trade, investment, industry and policy developments, by major sector. The five sector profiles in this investigation include: petroleum and energy, minerals and mining, chemicals and related products, agricultural products, and textiles, apparel and footwear.

4. A summary of the trade, services, and investment climates in each of the countries in sub-Saharan Africa, including a description of the basic tariff structure (e.g., the average tariff rate and the average agricultural tariff rate). The summaries should also include information on significant impediments to trade, including any import bans.

5. Updates on regional integration in sub-Saharan Africa and statistics on U.S. trade with major regional groupings (COMESA, EAC, ECOWAS, IGAD, SACU, SADC, and WAEMU). Where applicable, information should be provided on the regional group's tariff structure.

6. A description of the U.S. tariff structure for imports from Africa.

7. A summary of U.S. and total foreign direct investment and portfolio investment in sub-Saharan Africa.

8. Information on sub-Saharan African privatization efforts based on publicly available information.

9. A summary of multilateral and U.S. bilateral assistance to the countries of sub-Saharan Africa.

The USTR requested that the Commission provide its first report by December 2000, and annually for a period of 4 years thereafter. The second report in the series was delivered to USTR on December 10, 2001. The third report shall be delivered no later than December 10, 2002. The 48 countries of sub-Saharan Africa covered in this investigation include: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Republic of the Congo, Rwanda, São Tomé and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, and Zimbabwe.

Written Submissions: The Commission does not plan to hold a public hearing in connection with this third report. However, interested persons are invited to submit written statements concerning matters to be addressed in the report. Commercial or financial information that a person desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. The Commission's Rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 C.F.R 201.8). All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules (19 CFR 201.6). All written statements, except for confidential business information will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration, written statements relating to the Commission's report should be submitted at the earliest possible date and should be received not later than July 19, 2002. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW, Washington D.C. 20436. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: May 2, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–11285 Filed 5–6–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 13, 2001, and published in the **Federal Register** on July 23, 2001, (66 FR 38323), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, PO Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The institute will manufacture small quantities of cocaine derivatives and marihuana derivatives for use by their customers primarily in analytical kits, reagents and standards.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Research Triangle Institute to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Research Triangle Institute on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 18, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–11304 Filed 5–6–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed collection; comments requested

ACTION: 30-Day Notice of Information Collection Under Review: Reinstatement, with change, of a previously approved collection for which approval has expired, Police Public Contact Survey.

The Department of Justice (DOJ), Office of Justice Programs has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the Federal Register Volume 67, Number 33, page 7379 on February 19, 2002, allowing for a 60 day comment period. The purpose of this notice is to allow for an additional 30 days for public comment until June 6, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information

(1) *Type of information collection:* Reinstatement, with change, of previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Police Public Contact Survey.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* PPCS–1. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Eligible respondents to the survey must be age 16 or older. The Police Public Contact Supplement fulfills the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The survey will be conducted as a supplement to the National Crime Victimization Survey in all sample households for six (6) month period. Other: None

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Of the 84,700 eligible persons, we expect approximately 80 percent of the eligible persons or 67,760 persons to complete only the first four (lead-in or screening questions) questions on the questionnaire. We expect the screeners to take approximately .033 hours (2 minutes) per person to administer. We expect that approximately 20 percent of the eligible persons or 16,940 persons will report contact with the police. We estimate an average of .167 hours (10 minutes) to ask the detailed questions regarding the nature of the contact.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 5,065 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: April 30, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 02–11242 Filed 5–6–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Training Program Revision: National Sheriffs' Institute

AGENCY: National Institute of Corrections, Department of Justice

ACTION: Solicitation for a Cooperative Agreement

SUMMARY: The National Institute of Corrections (NIC), Jails Division, is seeking applications for the analysis for the current National Sheriffs' Institute, a leadership training program for first term sheriffs, and development of a new course curriculum.

Background: The National Sheriffs' Institute (NSI) was created in the early 1970s in response to a needs assessment conducted by the National Sheriffs' Association (NSA) that identified critical areas affecting the success of a sheriff's term of office. The NSA, with Law Enforcement Assistance Administration (LEAA) funds, supported the development of the core curriculum by the School of Public Administration, University of Southern California. From 1973–1981, the program was conducted with LEAA funds. From 1982–1991, when federal funds were not available to the NSI, sheriffs were required to attend at their own expense. In 1993, NIC joined with NSA to sponsor the program. It is now held twice a year at NIC's training center in Longmont, Colorado.

The program has undergone a variety of revisions since its inception. Over the years, it has evolved to focus on leadership, specifically as it applies to the Office of the Sheriff. It is now the only national leadership development program designed specifically for sheriffs. NIC views this program as critical for first-term sheriffs, since many sheriffs come to office with a law enforcement background, some management skills, and certain technical knowledge, but often have little or no preparation for their assumption of a leadership position.

The applicant should be aware that not only is this course specific to the leadership roles of sheriffs, but also that about 90% of sheriffs are from smaller, rural jurisdictions, which typically have severely limited resources and minimal staff. This will need to be considered during course development.

It has been several years since the NSI has been closely examined in its totality. Various refinements have been made, but in a rather piecemeal fashion. The entire program now needs a rigorous examination to ensure that (1) there is a consistent focus on leadership, (2) the concepts taught are current and applicable to roles and responsibilities of sheriffs, (3) all modules clearly contribute to achieving the goals of the course, (4) instructional strategies reflect adult learning theory and accommodate various learning styles, (5) the instructional design is learner centered, and (6) program participants are required to apply leadership concepts to their roles and activities as sheriffs. The analysis will be the basis for the development of a new curriculum. The current course is based on the sheriff's leadership role in five areas: (1) The political arena, (2) the criminal justice system, (3) the community, (4) his/her organization and staff, and (5) the technical arena. The course is two weeks long. The first week includes the following topics:

- The Sheriff in the American Justice System
- Decision Making
- Leadership Styles
- Language of Leadership
- Value-Centered Leadership
- Developing a Good Place to Work
- Building the Executive Team
- Exterior Forces Affecting the Office of the Sheriff
- Strategic Planning and Change

The second week covers a variety of subjects, such as power and influence, managing diversity, the politics of budgeting, media relations, legal issues, the principles of community policing, and public issues confronting the sheriff.

It is important to acknowledge that the NSI has an extensive history and tradition that provide the foundation for the course. However, in the development of a revised course curriculum, the applicant is not bound by the specific content, delivery strategies, or length of the current program. (Note, however, that the program may not exceed two weeks). NIC seeks applicants who are able to take into account the history and tradition of the NSI, but who also are able to bring a fresh perspective to the course.

Project Objectives: NIC wishes to analyze the current NSI in terms of the currency and relevance of content and the effectiveness of instructional strategies. Based on that analysis, NIC wishes to develop a revised course curriculum.

Scope of Work

Project description

The awardee will analyze the current NSI program and, based on that analysis, produce a complete, professionally-produced curriculum, with, at a minimum—

- *a narrative overview of the program,* describing the program's goals, characteristics of the target audience, the overall course framework, the rationale for the curriculum design, and an explanation of how the individual modules reinforce leadership concepts and relate to each other
- *lesson plans* for each module that detail content and provide for delivery strategies that require training participants to apply concepts to their roles and responsibilities as sheriffs
- *instructional aids,* such as handouts, computer-generated presentations, and other visual aids (visual aid must meet NIC's requirements for readability in a classroom setting)
- *instructor's guide*
- *suggested readings for participants*
- *participant workbook* that serves as a note-taking guide and provides all materials related to participant activities
- *participant evaluations,* including an end-of-program evaluation and a longer-term evaluation to determine if participants implement what they learn and the resulting benefits, if any

The applicant will be required to have all materials professionally edited for grammar, mechanics, spelling, and clarity. These materials will be delivered to NIC in one hard copy and on CD in Microsoft Word and PowerPoint format.

Project Schedule

The list below shows the major activities required to complete the project. Activities will begin upon award of this agreement and must be completed twenty-four months after the award date. The schedule for completion of activities should include the following, at a minimum.

- Meet with NIC staff for project overview and planning
- Review NSI materials provided by NIC
- Collect information on the leadership roles of the sheriff and related training needs, through literature research, interviews with sheriffs, attendance at an NSA conference, or other means
- Attend an NSI course in full and assess content, delivery strategies, and length
- Submit to NIC a written report that analyzes the current NSI in terms of, at a minimum, its adequacy in meeting the training needs of sheriffs regarding leadership, the currency and relevance of concepts taught, effectiveness of training delivery strategies, and quality and usefulness of program materials
- Meet with NIC staff regarding the written analysis
- Draft a proposed curriculum design, with the rationale for the design and an overview of content and delivery strategies
- Submit the proposed design to NIC for review
- Revise the proposed design based on comments from NIC
- Based on the agreed-upon design, draft program materials and submit to them to NIC as they are completed
- Revise draft materials based on NIC's comments
- Pilot the draft curriculum. This will be done during a scheduled NSI in Longmont (see dates below). If the applicant organization will instruct portions of the program, its fees and expenses must be charged to the cooperative agreement. NIC will choose and fund all other instructors, but the applicant is welcome to suggest potential instructors. Provision must be made to ensure instructors have program materials at least six weeks before the program so they can become familiar with them and ask any necessary clarification.
- Monitor the pilot program, in conjunction with NIC staff, for needed revision
- Revise program based on pilot
- Develop and submit final products, in hard copy (one) and on CD in Microsoft Word and PowerPoint format.

The awardee should make provision for two–three meetings with NIC staff—to be held in Longmont, Colorado—in addition to those listed above.

The National Sheriffs' Institute is conducted twice each federal fiscal year. One program remains in FY02, and that will be held on September 22–October 2, 2002. In FY03, the program will be held on April 27–May 9, 2003 and again on September 21 to October 3, 2003. In FY04, the program will be held in April and September, but the dates have yet to be set. Applicants for this cooperative agreement should develop their project schedules with these dates in mind.

Authority: Public Law 93–413.

Funds Available: The award will be limited to $145,000 (direct and indirect costs) and project activity must be completed within twenty-four months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Jails Division.

Application Procedures

Applications must be submitted in six copies to the Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. At least one copy of the application must have the applicant's original signature in blue ink. A cover letter must identify the responsible audit agency for the applicant's financial accounts.

Applications must be submitted using OMB Standard Form 424, Federal Assistance and attachments. The applications should be concisely written, typed double-spaced, and referenced to the project by the number and title given in this cooperative agreement announcement. The narrative portion of this grant application should include, at a minimum:

- A brief paragraph that indicates the applicant's understanding of the purpose of the document and the issues to be addressed;
- A brief paragraph that summarizes the project goals and objectives;
- A clear description of the methodology that will be used to complete the project and achieve its goals;
- A statement or chart of measurable project milestones and time lines for the completion of each;
- A description of the staffing plan for the project, including the role of each project staff, the time commitment for each, the relationship among the staff (who reports to whom), and an indication that all required staff will be available;
- A description of the qualifications of the applicant organization and each project staff;
- A budget that details all costs for the project, shows consideration for all contingencies for this project, and notes a commitment to work within the budget proposed (budget should be divided into object class categories as shown on application Standard Form 424A).

Documentation of the principals' and associates' relevant knowledge, skills, and abilities to carry out the described tasks must be included in the application. The application must also include a sample curriculum (includes all materials for the curriculum) developed by the applicant organization or by the curriculum-development specialist with whom the applicant

intends to subcontract. The curriculum must be for a course that is at least three-days long.

Deadline for Receipt of Applications: Applications must be received by 4:00 p.m. on Tuesday, June 24, 2002. They should be addressed to Director, National Institute of Corrections, 320 First Street, NW, Room 5006, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date as mail at the National Institute of Corrections is still being delayed due to recent events. Hand delivered applications should be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call (202) 307–3106, extension 0 for pickup.

ADDRESSES AND FURTHER INFORMATION: A copy of this announcement and the application forms may be obtained through the NIC web site: *http://www.nicic.org.* (click on cooperative agreements). Requests for a hard copy of this announcement and the application forms should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 44222, 202–307–3106, ext. 44222, or email: *jevens@bop.gov.* All technical and/or programmatic questions concerning this announcement should be directed to Ginny Hutchinson or Jim Barbee at 1960 Industrial Circle, Longmont, CO 80501, or by calling 800–995–6429, ext. 140 (G. Hutchinson) or ext. 138 (J. Barbee) or by email: *vhutchinson@bop.gov* or *jbarbee@bop.gov.*

Eligible Applicants: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Review Considerations: Applications received under this announcement will be subjected to a NIC three to five member Peer Review Process. Among the criteria used to evaluate the applications are:

- Indication of a clear understanding of the project requirements;
- Background, experience, and expertise of the proposed project staff, including any subcontractors;
- Effectiveness of the creative approach to the project;
- Clear, concise description of all elements and tasks of the project, with sufficient and realistic time frames necessary to complete the tasks;
- Technical soundness of project design and methodology;
- Financial and administrative integrity of the proposal, including adherence to federal financial guidelines and processes;
- Sufficiently detailed budget that shows consideration of all contingencies for this project and commitment to work within the budget proposed;
- Indication of availability to meet with NIC staff at key points in document development.
- Quality of sample curriculum.

Preference will be given to applicants or applicant teams that can clearly demonstrate expertise in executive leadership development, have experience in working with sheriffs and knowledge about the responsibilities and challenges of the Office of Sheriff, and have expertise and experience in professional curriculum development.

Number of Awards: One (1).

NIC Application Number: 02J20. This number should appear as a reference line in your cover letter, in box 11 of Standard Form 424, and on the outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601.

Dated: May 2, 2002.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 02–11286 Filed 5–6–02; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting Notice

Agenda

TIME AND PLACE: 9:30 a.m., Tuesday, May 14, 2002.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza S.W., Washington, DC 20594.

STATUS: The two items are Open to the Public.

MATTERS TO BE CONSIDERED:

5299H—Most Wanted Safety Recommendations Program—2002 Update.

7465—Highway Accident Report—Work Zone Collision Between a Tractor-Semitrailer and a Tennessee Highway Patrol Vehicle in Jackson, Tennessee, on July 26, 2000.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, May 10, 2002.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: May 3, 2002.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 02–11517 Filed 5–3–02; 3:48 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

1. *The title of the information collection:* 10 CFR Part 74, ''Material Control and Accounting of Special Nuclear Material;'' NUREG–1065, Rev. 2, ''Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low Enriched Uranium Facilities;'' NUREG/CR–5734, ''Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities;'' and NUREG–1280, Rev. 1, ''Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment''.

2. *Current OMB approval number:* 3150–0123.

3. *How often the collection is required:* Submission of the fundamental nuclear material control plan is a one-time requirement which has been completed by all current licensees. However, licensees may submit amendments or revisions to the plans as necessary. In addition, specified inventory and material status reports are required annually or semiannually. Other reports are submitted as events occur.

4. *Who is required or asked to report:* Persons licensed under 10 CFR parts 70 who possess and use certain forms and quantities of special nuclear material.

5. *The number of annual responses:* 36 (25 responses + 11 recordkeepers)

6. *The number of hours needed annually to complete the requirement or request:* 6,314 (1,369 hours for reporting

and 4,945 hours for recordkeeping [an average of 55 hours per response and 450 hours annually for each of 11 recordkeepers]) .

7. *Abstract:* 10 CFR part 74 establishes requirements for material control and accounting of special nuclear material, and specific performance-based regulations for licensees authorized to possess and use strategic special nuclear material, or to possess and use, or produce, special nuclear material of low strategic significance. The information is used by the NRC to make licensing and regulatory determinations concerning material control and accounting of special nuclear material and to satisfy obligations of the United States to the International Atomic Energy Agency (IAEA). Submission or retention of the information is mandatory for persons subject to the requirements.

Submit, by July 8, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Rockville, MD. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/public-involve/doc-comment/omb/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail to INFOCOLLECTS@NRC.GOV.

Dated at Rockville, Maryland, this 1st day of May, 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–11281 Filed 5–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Dominion Nuclear Connecticut, Inc.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 265 to Facility Operating License No. DPR–65 issued to Dominion Nuclear Connecticut, Inc., (the licensee), which revised the Final Safety Analysis Report (FSAR) for operation of the Millstone Nuclear Power Station, Unit No. 2, (MP2), located in New London County, Connecticut. The amendment is effective as of the date of issuance.

The amendment modified the MP2 FSAR, Chapter 14, description of the Steam Generator Tube Rupture (SGTR) event and its associated radiological dose consequences. The changes are not the result of hardware changes to the plant or changes in operating practices. Rather, the changes are the result of incorporating a postulated loss of offsite power into the event analyses as well as revised assumptions and analysis methodology. The FSAR changes show that the postulated dose consequences for the updated SGTR analysis are higher than the dose consequences for the previous analysis. However, the updated dose consequences are less than the dose guidelines of 10 CFR Part 100, Reactor Site Criteria, and 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 19, Control Room.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on April 23, 2001 (66 FR 20485). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (67 FR 18044).

Further details with respect to the action see (1) the application for amendment dated December 21, 2000, as supplemented June 29, 2001, (2) Amendment No. 265 to License No. DPR–65, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of April 2002.

For the Nuclear Regulatory Commission.

Richard B. Ennis, Sr.

Project Manager, Section 2, Project Directorate I, Division of Licensing, Project Management Office of Nuclear Reactor Regulation.

[FR Doc. 02–11279 Filed 5–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Meetings for the Yucca Mountain Review Plan, NUREG–1804, Revision 2, Draft Report for Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing public meetings on the ''Yucca Mountain Review Plan, NUREG–1804, Revision 2, Draft Report for Comment.'' The draft ''Yucca Mountain Review Plan'' provides guidance to the NRC staff for evaluating a potential license application for a geologic repository. The draft ''Yucca Mountain Review Plan'' notice of availability and request for comments was published in the **Federal Register** on March 29, 2002 (67 FR 15257). A correction in the April 2, 2002 **Federal Register** (67 FR 16490) states the public comment period ends on June 27, 2002.

Three meetings have been scheduled in the State of Nevada to engage the public in a discussion of the draft ''Yucca Mountain Review Plan'' and ensure that the process for developing the final Revision 2 of the review plan gives full consideration to the views of the public. The meetings will include several brief presentations on the purpose, scope, structure, and content of the Yucca Mountain Review Plan. NRC is seeking public input on whether the draft ''Yucca Mountain Review Plan'' would effectively assess the safety of a potential geologic repository both during the operations period and after permanent closure. NRC will keep a transcript of the meetings to ensure full consideration of all comments and questions. The meetings will be facilitated by Francis X. Cameron, Special Counsel for Public Liaison, of the NRC.

Time/Date: The first public meeting will be held on Tuesday, May 21, 2002, from 6:30 PM to 9:00 PM (Pacific Time).

Place: Mountain View Casino and Bowl, 1750 South Pahrump Valley Boulevard, Pahrump, Nevada 89048–5615.

Time/Date: The second public meeting will be held on Wednesday, May 22, 2002, from 2:00 PM to 4:30 PM (Pacific Time).

Place: Clark County Building Department, 4701 W. Russell Road, Las Vegas, Nevada 89118. The cross street is (4900 W) Decatur/Russell.

Time/Date: The third public meeting will be held on Thursday, May 23, 2002, from 6:30 PM to 9:00 PM (Pacific Time).

Place: Clark County Building Department, 4701 W. Russell Road, Las Vegas, Nevada 89118. The cross street is (4900 W) Decatur/Russell.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Special Counsel for Public Liaison, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by telephone: (301) 415–1642, or by e-mail: fxc@nrc.gov.

SUPPLEMENTARY INFORMATION: Copies of the draft ''Yucca Mountain Review Plan'' will be available at the public meeting. The document is also available at NRC's website at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1804/*. You may also send comments electronically from this website by clicking on *comment form*. If a hard copy is preferred, a free single copy of the ''Yucca Mountain Review Plan, NUREG–1804, Revision 2, Draft Report for Comment,'' may be requested by writing to the U.S. Nuclear Regulatory Commission, ATTN.: Reproduction and Distribution Services Branch, Washington, DC 20555–0001; sending an e-mail to *Distribution@nrc.gov;* or by sending a fax to (301) 415–2289. A copy of the ''Yucca Mountain Review Plan, NUREG–1804, Revision 2, Draft Report for Comment,'' is also available for inspection, and copying for a fee, in the NRC's Public Document Room, One White Flint North, Public File Area O1–F21, 11555 Rockville Pike, Rockville, Maryland.

Dated at Rockville, Maryland, this 30th day of April, 2002.

For the Nuclear Regulatory Commission.

Janet R. Schlueter,

Chief, High-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–11280 Filed 5–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

DATES: Weeks of May 6, 13, 20, 27, June 3, 10, 2002.

Place: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

Status: Public and Closed.

Matters to be Considered

Week of May 6, 2002

There are no meetings scheduled for the Week of May 6, 2002.

Week of May 13, 2002—Tentative

Thursday, May 16, 2002

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Meeting with World Association of Nuclear Operators (WANO) (Public Meeting)

This meeting will be webcast live at the Web address—*www.nrc.gov*

2:00 p.m. Discussion of Intragovernmental Issues (Closed—Ex. 9)

Week of May 20, 2002—Tentative

Monday, May 20, 2002

2:00 p.m. Discussion of Security Issues (Closed—Ex. 1)

Week of May 27, 2002—Tentative

Tuesday, May 28, 2002

9:30 a.m. Briefing on Nuclear Material Licensee Decommissioning and Bankruptcy Issue (Public Meeting) (Contact: Larry Camper, 301–415–7234)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Wednesday, May 29, 2002

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

9:30 a.m. Briefing on the Status of New Reactor Licensing Activities (Public Meeting) (Contact: Joseph Williams, 301–415–1470)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of June 3, 2002—tentative

Thursday, June 6, 2002

2:00 p.m. Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of June 10, 2002—Tentative

There are no meetings scheduled for the Week of June 10, 2002.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: May 2, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–11370 Filed 5–3–02; 10:56 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Briefing on Service Quality Surveys

AGENCY: Postal Rate Commission.

ACTION: Notice of briefing.

SUMMARY: The Commission's Office of the Consumer Advocate (OCA) will host a presentation on aggregated results of recent service quality surveys on Wednesday, May 8, 2002, beginning at 1:30 p.m. (eastern time) at the Commission. Presenters will be University of Southern California students who were part of a class involved in survey administration. The survey results form the basis for an OCA report on quality of postal services. The report and a related library reference (OCA–LR–J–2) were filed with the Commission on March 6, 2002. The Commission will broadcast the presentation over its Web site.

DATES: May 8, 2002.

ADDRESSES: Postal Rate Commission (hearing room), 1333 H Street, NW., Washington, DC 20268–0001, suite 300.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 202–789–6820.

Steven W. Williams,

Secretary.

[FR Doc. 02–11305 Filed 5–6–02; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 10A–1, SEC File No. 270–425, OMB Control No.3235–0468.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 10A–1 implements the reporting requirements in Section 10A of the Exchange Act, which was enacted by Congress on December 22, 1995 as part of the Private Securities Litigation Reform Act of 1995, Public Law No. 104–67. Under section 10A and Rule 10A–1 reporting occurs only if a registrant's board of directors receives a report from its auditors that (1) there is an illegal act material to the registrant's financial statements, (2) senior management and the board have not taken timely and appropriate remedial action, and (3) the failure to take such action is reasonably expected to warrant the auditor's modification of the audit report or resignation from the audit engagement. The board of directors must notify the Commission within one business day of receiving such a report. If the board fails to provide that notice, then the auditor, within the next business day, must provide the Commission with a copy of the report that it gave to the board.

Likely respondents are those registrants filing audited financial statements under the Securities Exchange Act of 1934 and the Investment Company Act of 1940.

It is estimated that Rule 10A–1 results in an aggregate additional reporting burden of 10 hours per year. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW. Washington, DC 20549.

Dated: April 30, 2002.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–11266 Filed 5–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549–0004.

Approval of Existing Information Collections:

Rule 27d–1 and Form N–27D–1, SEC File No. 270–499, OMB Control No. 3235–new

Rule 27d–2, SEC File No. 270–500, OMB Control No. 3235–new

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of the collections of information under the Investment Company Act of 1940 (''Act'') summarized below.

Rule 27d–1 [17 CFR 270.27d–1] is entitled ''Reserve Requirements for Principal Underwriters and Depositors to Carry Out the Obligations to Refund Charges Required by Section 27(d) and Section 27(f) of the Act.'' Form N–27D–1 is entitled ''Accounting of Segregated Trust Account.'' Rule 27d–2 [17 CFR 270.27d–2] is entitled ''Insurance Company Undertaking in Lieu of Segregated Trust Account.'' Rule 27d–1 requires the depositor or principal underwriter for an issuer to deposit funds into a segregated trust account to provide assurance of its ability to fulfill its refund obligations under sections 27(d) and 27(f). The rule sets forth minimum reserve amounts and guidelines for the management and disbursement of the assets in the account. A single account may be used for the periodic payment plans of multiple investment companies. Rule 27d–1(j) directs depositors and principal underwriters to make an accounting of their segregated trust accounts on Form N–27D–1, which is intended to facilitate the Commission's oversight of compliance with the reserve requirements set forth in rule 27d–1. The form requires depositors and principal underwriters to report deposits to a segregated trust account, including those made pursuant to paragraphs (c) and (e) of the rule. Withdrawals pursuant to paragraph (f) of the rule also must be reported. In addition, the form solicits information regarding the minimum amount required to be maintained under paragraphs (d) and (e) of rule 27d–1. Depositors and principal underwriters must file the form once a year on or before January 31 of the year following the year for which information is presented.

Instead of relying on rule 27d–1 and filing Form N–27D–1, depositors or principal underwriters for the issuers of periodic payment plans may rely on the exemption afforded by rule 27d–2. In order to comply with the rule, (i) the depositor or principal underwriter must secure from an insurance company a written guarantee of the refund requirements, (ii) the insurance company must satisfy certain financial criteria, and (iii) the depositor or principal underwriter must file as an exhibit to its registration statement, a copy of the written undertaking, an annual statement that the insurance company has met the requisite financial criteria on a monthly basis, and an annual audited balance sheet.

Rules 27d–1 and 27d–2, which were explicitly authorized by statute, provide assurance that depositors and principal underwriters of issuers have access to sufficient cash to meet the demands of certificate holders who reconsider their decision to invest in a periodic payment plan. The information collection requirements in rules 27d–1 and 27d–2

enable the Commission to monitor compliance with reserve rules.

Commission staff estimates that there are three issuers of periodic payment plan certificates. The depositor or principal underwriter of each of these issuers must file Form N–27D–1 annually or comply with the requirements in rule 27d–2. One Form N–27D–1 is filed annually. The Commission estimates that a staff accountant spends 4 hours and an accounting manager spends 2 hours preparing Form N–27D–1. Therefore, the total annual hour burden associated with rule 27d–1 and Form N–27d–1 is estimated to be 6 hours. The staff estimates that two depositors or principal underwriters rely on rule 27d–2 and that each of these respondents makes three responses annually. We estimate that each depositor or underwriter expends approximately two hours per year obtaining a written guarantee from an insurance company or negotiating changes to coverage with the insurance company and 4.5 hours per year filing the two required documents from the insurance company on EDGAR. Thus, we estimate that the annual burden is approximately 13 hours.[1]

In addition to the hour burden described above, rule 27d–1 imposes certain costs. First, outside accountants review Form N–27D–1 at an annual cost of $90. Second, a financial printer files the form at an annual cost of $70. Thus, assuming that an average of one Form N–27D–1 is filed each year, the staff estimates that the total annual cost of the information collection burden in rule 27d–1 is $160. The staff believes that rule 27d–2 does not impose any cost burdens other than those arising from the hour burdens discussed above.

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.[2]

Complying with the collection of information requirements of rule 27d–1 is mandatory for depositors or principal underwriters of issuers of periodic payment plans unless they comply instead with the requirements in rule 27d–2. The information provided pursuant to rules 27d–1 and 27d–2 is public and, therefore, will not be kept confidential. The Commission is seeking OMB approval, because 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 30, 2002.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–11265 Filed 5–6–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 2 funds × (2 hours negotiating coverage + 4.5 hours filing necessary proof of adequate coverage) = *13 hours.*

[2] These estimates are based on telephone interviews between the Commission staff and representatives of depositors or principle underwriters of periodic payment plan issuers.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25558; 812–12160]

Portfolio Partners, Inc., et al.; Notice of Application

April 30, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as certain disclosure requirements.

SUMMARY OF THE APPLICATION: Applicants seek an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Portfolio Partners, Inc.[1] (the ''PPI Fund''), The GCG Trust (the ''GCG Trust,'' collectively with PPI Fund, the ''Funds''), Aetna Life Insurance and Annuity Company[2] (''Aetna'') and Directed Services, Inc. (''DSI,'' collectively with Aetna, the ''Advisers'').

FILING DATES: The application was filed on June 30, 2000, and amended on April 26, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 23, 2002 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, PPI Fund and Aetna, 151 Farmington Avenue, Hartford, CT 06156–8962; and GCG Trust and DSI, 1475 Dunwoody Drive, West Chester, PA 19380.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (telephone (202 942–8090).

Applicants' Representations

1. PPI Fund, a Maryland corporation, and GCG Trust, a Massachusetts business trust, are registered under the Act as open-end management investment companies. PPI Fund and GCG Trust are each comprised of multiple series (each a ''Portfolio,'' collectively the ''Portfolios''), each with its own investment objectives and policies.[3] The shares of each Portfolio currently are offered and sold through

[1] Effective May 1, 2002, Portfolio Partners, Inc. will be renamed ''ING Partners, Inc.''

[2] 2 Effective May 1, 2002, Aetna Life Insurance and Annuity Company will be renamed ''ING Life Insurance and Annuity Company.''

[3] Applicants also request relief with respect to future series of the Funds and any other registered open-end management investment companies and series thereof that (a) are advised by the Advisers or any entity controlling, controlled by, or under common control with the Advisers; (b) use the Adviser/Sub-Adviser structure described in the application; and (c) comply with the terms and conditions in the application (''Future Funds,'' included in the term ''Funds,'' and their series included in the term ''Portfolios''). If the name of any Portfolio relying on the requested relief contains the name of a Sub-Adviser (as defined below), it will also contain the name of the Adviser, which will appear before the name of the Sub-Adviser.

insurance company separate accounts, which are used to fund variable annuity contracts and variable life insurance contracts.

2. Aetna and DSI are registered as investment advisers under the Investment Advisers Act of 1940 (the ''Advisers Act''). Aetna currently serves as the investment adviser to PPI Fund and DSI serves as the investment adviser to GCG Trust. Aetna and DSI are wholly owned subsidiaries of ING Group N.V.

3. PPI Fund and GCG Trust have entered into separate investment management agreements with Aetna and DSI (''Advisory Agreements''), respectively, that were approved by the Funds'' respective boards of directors/trustees (the ''Boards''), including a majority of the directors/trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), and each Portfolio's shareholders. The Advisory Agreements permit the Advisers to enter into separate investment advisory agreements (''Sub-Advisory Agreements'') with investment management organizations as sub-advisers (''Sub-Advisers'') to whom each Adviser may delegate day-to-day portfolio management responsibilities for a Portfolio.

4. Each Adviser monitors and evaluates the Sub-Advisers and recommends to the respective Board their hiring, retention or termination. Sub-Advisers recommended to the Board by the Adviser are selected and approved by the Board, including a majority of the Independent Directors. Each Sub-Adviser's fees are paid by the respective Adviser out of the management fees received by that Adviser under its Advisory Agreement.

5. Applicants request relief to permit the Advisers, subject to Board approval, to enter into and materially amend Sub-Advisory Agreements without shareholder approval. The requested relief will not extend to a Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Adviser, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios (an ''Affiliated Sub-Adviser'').

6. Applicants also request an exemption from the various disclosure provisions described below that may require the Portfolios to disclose the fees paid by an Adviser to the Sub-Advisers. An exemption is requested to permit the Portfolios to disclose (as both a dollar amount and as a percentage of a Portfolio's net assets): (a) aggregate fees paid to the Adviser and Affiliated Sub-Advisers; and (b) aggregate fees paid to the Sub-Advisers other than Affiliated Sub-Advisers (''Aggregate Fee Disclosure''). If a Portfolio employs an Affiliated Sub-Adviser, the Portfolio will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a-1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N-SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N-SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S-X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard for reasons discussed below.

7. Applicants assert that each Portfolio's shareholders have determined to rely on the Adviser to select, monitor and replace Sub-Advisers. Applicants contend that from the perspective of the investor, the role of the Sub-Advisers is comparable to individual portfolio managers employed by other firms. Applicants contend that requiring shareholder approval of the Sub-Advisory Agreements would impose unnecessary costs and delays on the Portfolios, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreements will remain subject to section 15(a) of the Act and rule 18f-2 under the Act.

8. Applicants assert that many Sub-Advisers charge their customers for advisory services according to a ''posted'' rate schedule. Applicants state that while Sub-Advisers are willing to negotiate fees lower than those posted in the schedule, particularly with large institutional clients, they are reluctant to do so when the fees are disclosed to other prospective and existing customers. Applicants submit that the relief will encourage Sub-Advisers to negotiate lower advisory fees with the Advisers, the benefits of which are likely to be passed on to the Portfolio's shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Portfolio may rely on the order, the operation of the Portfolio in the manner described in the application will be approved by a majority of the outstanding voting securities of the Portfolio (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or, in the case of a Portfolio whose public shareholders (or variable contract owners through a separate account) purchased shares on the basis of a prospectus(es) containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before the shares of such Portfolio are offered to the public (or the variable contract owners through a separate account).

2. A Portfolio's prospectus will prominently disclose the existence, substance, and effect of any order granted pursuant to the application. Each Portfolio will hold itself out to the public as employing the management structure described in the application. A Portfolio's prospectus will prominently disclose that the Adviser has the ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. The Advisers will provide general management services to each of the respective Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to the review and approval by the Board, will (i) set each Portfolio's overall investment strategies; (ii) evaluate, select and recommend Sub-Advisers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Sub-Advisers; (iv) monitor and evaluate the investment performance of Sub-Advisers; and (v) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the relevant Portfolio's investment objectives, policies and restrictions.

4. At all times, a majority of the Board of the respective Fund will be Independent Directors and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

5. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

6. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board of the Fund, including a majority of the Independent Directors, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the applicable Portfolio and its shareholders and does not involve a conflict of interest from which the respective Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. No director, trustee, or officer of the Fund or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by the director/trustee or officer) any interest in a Sub-Adviser except (a) for the ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) for the ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

8. Within 90 days of the hiring of any new Sub-Adviser, the Adviser will furnish shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, the Adviser will furnish the unitholders of the sub-account) of the applicable Portfolio all information about the new Sub-Adviser that would be contained in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Sub-Adviser. To meet this condition, the respective Adviser will provide the shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then by providing unitholders of the sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

9. Each Portfolio will disclose in its registration statement the Aggregate Fee Disclosure.

10. Independent legal counsel, as defined in Rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Directors of the Fund. The selection of such counsel will remain within the discretion of the then-existing Independent Directors.

11. Each Adviser will provide the respective Board, no less frequently than quarterly, with information about the Adviser's profitability on a per-Portfolio basis. The information will reflect the impact on the profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

12. Whenever a Sub-Adviser is hired or terminated, the relevant Adviser will provide the Board with information showing the expected impact on the Adviser's profitability.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–11229 Filed 5–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published On May 3, 2002]

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, May 8, 2002 at 9:30 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item will be considered at the open meeting scheduled for Wednesday, May 8, 2002:

The Commission will consider whether to issue an Order extending the temporary exemption of banks, savings associations, and savings banks from the definitions of ''broker'' and ''dealer'' under Section 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934.

Commissioner Glassman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

For further information please contact the Office of the Secretary at (202) 942–7070.

Dated: May 2, 2002.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–11377 Filed 3–5–02; 11:52 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45855; International Series Release No. 1257]

List of Foreign Issuers That Have Submitted Information Under the Exemption Relating to Certain Foreign Securities

May 1, 2002.

Foreign private issuers with total assets in excess of $10,000,000 and a class of equity securities held of record by 500 or more persons, of which 300 or more reside in the United States, are subject to registration under Section 12(g) of the Securities Exchange Act of 1934 [1] (the ''Act'').[2]

[1] 15 U.S.C. 78a *et seq.*

[2] Foreign issuers may also be subject to such requirements of the Act by reason of having securities registered and listed on a national securities exchange in the United States, and may be subject to the reporting requirements of the Act by reason of having registered securities under the Securities Act of 1933, 15 U.S.C. 77a *et seq.*

Rule 12g3–2(b) [3] provides an exemption from registration under Section 12(g) of the Act with respect to a foreign private issuer that submits to the Commission, on a current basis, the material required by the Rule. The informational requirements are designed to give investors access to certain information so they have the opportunity to inform themselves about the issuer. The Rule requires the issuer to provide the Commission with information that it has: (1) Made or is required to make public pursuant to the law of the country of its domicile or in which it is incorporated or organized; (2) filed or is required to file with a stock exchange on which its securities are traded and that was made public by such exchange; and/or (3) distributed or is required to distribute to its securities holders.

On October 6, 1983, the Commission revised Rule 12g3–2(b) by terminating the availability of the exemptive rule for certain foreign issuers with securities quoted on an automated inter-dealer quotation system—including the Nasdaq stock market.[4] The Commission grandfathered indefinitely securities of non-Canadian issuers that were in compliance with the Rule as of October 6, 1983 and quoted on Nasdaq on that date.[5]

When the Commission adopted Rule 12g3–2(b) and other rules [6] relating to foreign securities, it indicated that from time to time it would publish lists showing those foreign issuers that have claimed exemptions from the registration provisions of Section 12(g) of the Act.[7] The purpose of this release is to call to the attention of brokers, dealers and investors, that some form of relatively current information concerning the issuers included in this list is available in the Commission's public files.[8] The Commission also wishes to bring to the attention of brokers, dealers, and investors the fact that current information concerning foreign issuers may not necessarily be available in the United States.[9] The Commission continues to expect that brokers and dealers will consider this fact in connection with their obligations under the federal securities laws to have a reasonable basis for recommending those securities to their customers.[10]

Direct any questions regarding Rule 12g3–2 or the list of issuers in this release to Michael Coco, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, Washington, DC 20549–0302 ((202) 942–2990). This release is available on the Commission's Web site: *www.sec.gov.* Requests for copies may also be directed to the Public Reference Room, Securities and Exchange Commission, Washington, DC 20549–0102 ((202) 942–8090).

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

Company name	Country	File No.
10 Group plc	United Kingdom	82–5229
701 Com Corp	Canada	82–5119
AB Lietuvos Telekomas	Lithuania	82–5086
ABB AB	Sweden	82–736
Accor S.A	France	82–4672
Aceralia Corporacion Siderurgica S.A	Spain	82–4967
ACOM Co. Ltd	Japan	82–4121
Adidas Saloman AG	Germany	82–4278
AEM S.p.A	Italy	82–4911
Aeroflot Russian International Airlines	Russia	82–4592
AES Tiete S.A	Brazil	82–3691
Africa Gem Resources	South Africa	82–34638
African Marine Materials Corp	Canada	82–3329
Afrikander Lease Ltd	South Africa	82–34632
Agau Resources Inc	Canada	82–4769
Agenix Limited	Australia	82–34639
Agora S.A	Poland	82–4941
AIFUL Corp	Japan	82–4802
Air France	France	82–5050
Airtours plc	United Kingdom	82–5049
Albert Fisher Group plc	United Kingdom	82–1020
Aldeasa S.A	Spain	82–4774
Alive International Inc	Canada	82–5056
Alktek Power Corp	Canada	82–3219
Allgreen Properties Ltd	Singapore	82–4959
Allied Domecq plc	United Kingdom	82–878
Alpha General (Holdings) Ltd	Bermuda	82–34649
Altai Resources, Inc	Canada	82–2950
Amadeus Global Travel Distribution S.A	Spain	82–5173
America Telecom S.A. de C.V	Mexico	82–34636
American Comstock Exploration	Canada	82–3283
American Manor Corp	Canada	82–4158

[3] 17 CFR 240.12g3–2(b).

[4] Exchange Act Release No. 20264 (October 6, 1983).

[5] If, however, the securities are delisted from an automated inter-dealer quotation system or if the issuer fails to meet the requirements of the Rule, the grandfather provision will cease to apply. In addition, effective April 1, 1998, the securities of foreign private issuers that claim the Rule 12g3–2(b) exemption are no longer able to be quoted on the OTC Bulletin Board Service. See Exchange Act Release No. 38456 (March 31, 1997).

[6] Exchange Act Release No. 8066 (April 28, 1967).

[7] Exchange Act Release No. 41384 (May 10, 1999) was the last such list.

[8] Inclusion of an issuer on the list in this release is not an affirmation by the Commission that the issuer has complied or is complying with all the conditions of Rule12g3–2(b). The list does identify those issuers that have both claimed the exemption and have submitted relatively current information to the Commission as of April 4, 2002.

[9] Paragraph (a)(4) of Rule 15c2–11 [17 CFR 240.15c2–11] requires a broker-dealer initiating a quotation for securities of a foreign private issuer to review, maintain in its files, and make reasonably available upon request, the information furnished to the Commission pursuant to Rule 12g3–2(b) since the beginning of the issuer's last fiscal year.

[10] *See, e.g., Hanley* v. *SEC*, 415 F.2d 589 (2d Cir. 1969) (broker-dealer cannot recommend a security unless an adequate and reasonable basis exists for such recommendation).

Company name	Country	File No.
Amoy Properties Ltd	Hong Kong	82–3410
AMRAD Corp. Ltd	Australia	82–4867
AmSteel Corp Berhad	Malaysia	82–3318
Angkasa Marketing Berhad	Malaysia	82–3319
Anglo American Corp. of South Africa	South Africa	82–97
Anglo Irish Bank Corp. plc	Ireland	82–3791
AO Novgorodtelecom	Russia	82–4840
AO Samaraenergo	Russia	82–4708
AO Siberian Oil Company	Russia	82–4882
AO Surgutneftegas	Russia	82–4302
Apasco	Mexico	82–3103
APF Energy Trust	Canada	82–5166
Applied Gaming Solutions	Canada	82–4832
Applied Optical Technologies plc	United Kingdom	82–5165
Aquarius Platinum Ltd	Bermuda	82–5097
Archon Minerals Ltd	Canada	82–4171
Arcon International Resources plc	Ireland	82–4803
Argent Resources Ltd	Australia	82–5091
Arisawa Manufacturing Co. Ltd	Japan	82–4620
Asia Fiber plc	Thailand	82–2842
Asiana Airlines	Korea	82–5171
Australian Oil & Gas Corp. Ltd	Australia	82–4576
Austrian Airlines	Austria	82–4970
Auterra Ventures Inc	Canada	82–4653
Avalon Ventures Ltd	Canada	82–4427
Avgold Ltd	South Africa	82–4482
BAA plc	United Kingdom	82–3372
Bacardi Ltd	Bermuda	82–4992
Bambuu Ltd	Australia	82–4872
Banca Popolare di Brescia	Italy	82–4662
Banca Popolare di Lodi	Italy	82–4855
Banco Mercantil S.A	Bolivia	82–4296
Bandai Co	Japan	82–3919
Bangkok Bank Public Co. Ltd	Thailand	82–4835
Bank Handlowy w Warszawie	Poland	82–4613
Bank of East Asia Ltd	Hong Kong	82–3443
Bank of Fukuoka Ltd	Japan	82–1117
Bank of Nova Scotia	Canada	82–132
Bank of Scotland	United Kingdom	82–3240
Bank Vozrozhdeniye	Russia	82–4257
BankInter S.A	Spain	82–2972
BC Gas Inc	Canada	82–3909
BCE Emergis Inc	Canada	82–5206
Beghin Say	France	82–5209
Beijing Beida Jade Bird Universal Sci-Tech Co	China	82–34651
Beijing Datang Power Generation Co. Ltd	China	82–5186
Beijing Enterprises Holdings Ltd	Hong Kong	82–34642
Belluna Co. Ltd	Japan	82–5233
Beta Systems Software AG	Germany	82–4631
Billerud AB	Sweden	82–34625
Billiton plc	United Kingdom	82–4647
Blackrock Ventures Inc	Canada	82–4555
Blue Power Energy Corp	Canada	82–2213
Bohler Uddeholm AG	Austria	82–4089
Boliden Ltd	Canada	82–4707
Bombardier Inc	Canada	82–3123
Bonus Resource Services Corp	Canada	82–1162
Borealis Exploration Ltd	Canada	82–1656
Bradford and Bingley plc	United Kingdom	82–5154
Brambles Industries plc	United Kingdom	82–5205
Brasilca Mining Corp	Canada	82–2257
Bresagen Ltd	Australia	82–5135
Bridgestone Corp	Japan	82–1264
British Aerospace plc	United Kingdom	82–3138
Burns Philip & Company Ltd	Australia	82–1565
BWI Resources	Canada	82–2914
BWT Aktiengesellschaft	Austria	82–5221
C.I. Fund Management Inc	Canada	82–4994
Canadian Everock Exploration	Canada	82–5163
Canadian Hunter Exploration Ltd	Canada	82–5002
Canadian Hydro Developers	Canada	82–3347
Canadian Metals Corp. Ltd	Canada	82–2143
Canadian Oil Sands Trust	Canada	82–5189
Canadian Western Bank	Canada	82–4478

Company name	Country	File No.
CanBaikal Resources	Canada	82–4694
Cap Gemini S.A	France	82–5065
Capio AB	Sweden	82–5108
Capitaland Ltd	Singapore	82–4507
Carribean Cement Co. Ltd	Jamaica	82–3715
Carso Global Telecom	Mexico	82–4379
Cassa di Risparmio di Firenze S.p.A	Italy	82–5126
Cathay Pacific Airlines	Hong Kong	82–1390
Caussa Capital Corp	Canada	82–3858
Cementos Lima S.A	Peru	82–3911
Central Termica Guemas	Argentina	82–5145
Cereol	France	82–5210
Cerestar	France	82–5211
Cerveceria Nacional S.A	Panama	82–4704
Ceska Sporitelna A.S	Czech Republic	82–4384
Challenger Minerals Ltd	Canada	82–3666
Champion Technology Holdings Ltd	Hong Kong	82–3442
Chaoda Modern Agriculture Holdings Ltd	Cayman Islands	82–34644
Cheung Kong Holdings Ltd	Hong Kong	82–4138
China Online Bermuda Ltd	Bermuda	82–3654
China Pharmaceutical Enter/In. Co	Hong Kong	82–4135
China Steel Corp	China	82–3296
China Strategic Holdings Ltd	Hong Kong	82–3596
Cho Hung Bank	Korea	82–4506
Cia Forca y Luz Cataguases Leopoldina	Brazil	82–5147
Circle Energy Inc	Canada	82–4586
CITIC Pacific Ltd	China	82–5232
Clarica Life Insurance	Canada	82–4988
Claude Resources Inc	Canada	82–1742
Coca Cola Hellenic Bottling	Greece	82–5180
Coca-Cola Amatil Ltd	Australia	82–2994
Colony Pacific Explorations Ltd	Canada	82–1115
Commonwealth Energy Corp	Canada	82–4805
Compagnie Des Machines Bull	France	82–4847
Companhia de Transmissao de Energeria	Brazil	82–4980
Companhia Energetica de Sao Paulo	Brazil	82–3691
Companhia Siderurgica Belgo Mineira	Brazil	82–3771
Companhia Suzano De Papel E Celulose	Brazil	82–3550
Compass Group plc	United Kingdom	82–5161
Computershare Ltd	Australia	82–4966
Concept Wireless Inc	Canada	82–4003
Consolidated Odyssey Exploration Inc	Canada	82–3934
Consolidated Pine Channel Gold Corp	Canada	82–2583
Consolidated Westview Resource Corp	Canada	82–2601
Consorcio Ara S.A. de C.V	Mexico	82–4380
Continental AG	Germany	82–1357
Continental Precious Minerals Inc	Canada	82–3358
Cora Resources Ltd	Canada	82–4571
Corporacion Financiera del Valle S.A	Colombia	82–3437
Corporacion Geo S.A. de C.V	Mexico	82–3870
Corriente Resources Inc	Canada	82–3775
Credit Communai Holding Dexia Belgium	Belgium	82–4606
Cross Lake Minerals Ltd	Canada	82–2636
CSX Corporations	Japan	82–781
Curion Venture Corp	Canada	82–3602
Cybrid Co. Ltd	Japan	82–5139
Dah Sing Financial Holdings Ltd	Hong Kong	82–4272
Dai'ei Inc	Japan	82–230
Dairy Farm International Holdings Ltd	Hong Kong	82–2962
David Jones Ltd	Australia	82–4230
Davide Campari Milano S.p.A	Italy	82–5203
De Beers Centenary AG	Switzerland	82–3069
De Beers Consolidated Mines, Ltd	South Africa	82–91
Delmonte Pacific Ltd	British Virgin Islands	82–5068
Den Danske Bank AF 1871 AG	Denmark	82–1263
Dentsu Inc	Japan	82–5241
Deutsche Lufthansa AG	Germany	82–4691
Development Bank of Singapore	Singapore	82–3172
Devine Entertainment Corp	Canada	82–4118
Diseno Textil S.A	Spain	82–5185
Dofasco Inc	Canada	82–3226
DSM N.V	Netherlands	82–3120
E New Media Co. Ltd	Hong Kong	82–5101
East Japan Railway Co	Japan	82–4990

Company name	Country	File No.
Eastmain Resources Inc	Canada	82–4421
Editora Saraiva S.A	Brazil	82–5046
Egg plc	United Kingdom	82–5088
EI Environmental Engineering Concepts	Canada	82–1598
Eisai Co. Ltd	Japan	82–4015
Email Ltd	Australia	82–2951
Emgold Mining Corp	Canada	82–3003
EMI Group plc	United Kingdom	82–373
Empire Alliance Properties Inc	Canada	82–2215
Energy Africa Ltd	South Africa	82–4306
Epic Oil and Gas Ltd	Canada	82–5045
Epsilon AB	Sweden	82–5177
Erciyas Biracilik & Malt Sanayi	Turkey	82–4144
ERG S.p.A	Italy	82–4745
Erste Bank	Austria	82–5066
Essilor International	Canada	82–4944
Eurotunnel plc	United Kingdom	82–3000
Eurotunnel S.A	France	82–2999
Evergreen Forests Ltd	New Zealand	82–4114
Evergreen Marine Corp. Ltd Taiwan	China	82–4420
Ezenet Corp	Canada	82–4976
Fancamp Resources Ltd	Canada	82–3929
FANCL Corporation	Japan	82–5032
Fantastic Corporation	Switzerland	82–5115
Federation Group Ltd	Australia	82–5194
Fedsure Holdings Ltd	South Africa	82–3839
First Australian Resources N.L	Australia	82–3494
First Pacific Co. Ltd	Hong Kong	82–836
First Quantum Minerals Ltd	Canada	82–4461
First Silver Reserve Inc	Canada	82–3449
First Tractor Company Ltd	China	82–4772
FJA AG	Germany	82–5077
Fortis Amev	Belgium	82–3118
Fortis S.A./N.V	Belgium	82–5234
Foschini Ltd	South Africa	82–4044
Fosters Brewing Group Ltd	Australia	82–1711
Four Imprint Group plc	United Kingdom	82–5104
Franc Or Resources Corp	Canada	82–4164
Friends Provident plc	United Kingdom	82–34640
Frontier Minerals Inc	Canada	82–2546
Frutarom Industries 1995 Ltd	Israel	82–4357
Fuji Bank Ltd	Japan	82–4492
Fuji Photo Film Co. Ltd	Japan	82–78
Fuji Television Network	Japan	82–5176
Fujisawa Pharmaceutical Co. Ltd	Japan	82–5231
Fujitsu Support and Service	Japan	82–4885
Funai Electric Ltd	Japan	82–5078
Future Link Systems Inc	Canada	82–2406
G. Accion S.A. de C.V	Mexico	82–4590
Galaxy Online Inc	Canada	82–5099
Genbel South Africa	South Africa	82–235
Gencor Ltd	South Africa	82–311
Generale de Sante S.A	France	82–34626
Genetic Technologies Ltd	Australia	82–34627
Genting Berhad	Malaysia	82–4962
Geo 2 Ltd	Australia	82–4499
Gerle Gold Ltd	Canada	82–1209
Giordano Holdings Ltd	Hong Kong	82–3780
Gitennes Exploration Inc	Canada	82–4170
Givuadan S.A	Switzerland	82–5087
GKN plc	United Kingdom	82–1042
Glanbia Public Ltd	Ireland	82–4734
Global Direct Inc	Canada	82–5084
Glorius Sun Enterprises Ltd	Bermuda	82–4581
Golconda Resources Ltd	Canada	82–3167
Gold Fields of South Africa Ltd	South Africa	82–204
Gold Peak Industries (Holdings) Ltd	Canada	82–3604
Goldas Kuyumculuk Sanayi Ithalat Ihracat AS	Turkey	82–5223
Goldcliff Resources Corp	Canada	82–2748
Golden Arch Resources Ltd	Canada	82–659
Golden Hope Mines Ltd	Canada	82–3023
Goldsat Mining Inc	Canada	82–5000
Goodman Fielder Ltd	Australia	82–2009
Govett Strategic Investment Trust plc	United Kingdom	82–287

Company name	Country	File No.
Grand Hotel Holdings Ltd	Hong Kong	82–3408
Grasim Industries Ltd	India	82–3322
Great Eagle Holdings Ltd	Bermuda	82–3940
Great Quest Metals Ltd	Canada	82–3116
Great Universal Stores plc	United Kingdom	82–5017
Greater China Technology	Cayman Islands	82–5096
Grupo Auxiliar Metalurgico S.A	Spain	82–5201
Grupo Carso S.A. de C.V	Mexico	82–3175
Grupo Dataflux	Mexico	82–4899
Grupo Ferrovial S.A	Spain	82–4939
Grupo Financiero Bancomer S.A. de C.V	Mexico	82–3273
Grupo Financiero Santander Mexicano	Mexico	82–3447
Grupo Gigante, S.A. de C.V	Mexico	82–3142
Grupo Industrial Saltillo	Mexico	82–5019
Grupo Melo S.A	Panama	82–4893
Grupo Mexico S.A. de C.V	Mexico	82–4582
Grupo Posadas S.A. de C.V	Mexico	82–3274
GTECH International Resources Ltd	Canada	82–3779
Guangdong Investments Ltd	Hong Kong	82–3772
Guangzhou Investment Co. Ltd	Hong Kong	82–4247
Gzitic Hauling Holdings Ltd	Hong Kong	82–4195
H. Lundbeck A.S	Denmark	82–4973
Hagemeyer N.V	Netherlands	82–4865
Halifax Group plc	United Kingdom	82–5003
Hang Seng Bank Ltd	Hong Kong	82–1747
Hansom Eastern Holdings Ltd	Cayman Islands	82–4152
HBOS plc	United Kingdom	82–5222
Heineken Holding N.V	Netherlands	82–5149
Heineken N.V	Netherlands	82–4953
Henderson Investment Ltd	Hong Kong	82–3964
Henderson Land Development Co. Ltd	Hong Kong	82–1561
Henkel KGAA	Germany	82–4437
Henlys Group plc	United Kingdom	82–5051
Herald Resources Ltd	Australia	82–4295
Highveld Steel & Vanadium Corp. Ltd	South Africa	82–596
Hikari Tsushin Inc	Japan	82–4998
Hindalco Industries Ltd	India	82–3428
Hoganas AB	Sweden	82–3754
Hokuriku Bank Ltd	Japan	82–1045
Homeproject Com Inc	Canada	82–4782
Hong Kong & China Gas Co. Ltd	Hong Kong	82–1543
Hong Kong Construction Holdings	Hong Kong	82–4029
Hornbach-Baumarkt AG	Germany	82–3729
Housing Bank	Jordan	82–5016
HTI Ventures Corp	Canada	82–1535
Hypothekenbank in Essen AG	Germany	82–4883
Hyundai Motor Company	Korea	82–3423
I One Net International Ltd	Canada	82–5074
I.T.C. Limited	India	82–3470
IEM S.A. de C.V	Mexico	82–2337
IKPC	Brazil	82–3797
Impala Platinum Holdings Ltd	South Africa	82–359
Imperial Metals Corp	Canada	82–1032
Imperial One International Ltd	Australia	82–1257
Inapa Investimentos Participacoes e Gesta	Portugal	82–4864
Inca Pacific Resources Inc	Canada	82–1665
Indian Oil Corp. Ltd	India	82–4894
Indusmin Energy Corp	Canada	82–4833
Industrial Bank of Japan	Japan	82–4752
Inepar S.A. Industria y Construcoes	Brazil	82–5105
Intelsat Ltd	Bermuda	82–5214
Interbrew S.A./N.V	Netherlands	82–5159
International Chargold Resources Ltd	Canada	82–4385
International Company for Food Industries	Egypt	82–5094
International Health Partners Inc	Canada	82–4868
International Parkside Products Inc	Canada	82–2794
International PBX Ventures Ltd	Canada	82–2635
International Road Dynamics Inc	Canada	82–3899
Internet Identity Presence Co. Inc	Canada	82–478
Interpump Group S.p.A	Italy	82–4511
Interstar Mining Group. Inc	Canada	82–3759
Invensys plc	United Kingdom	82–2142
IP Applications Corp	Canada	82–34637
Iscor Ltd	South Africa	82–3826

Company name	Country	File No.
Italian Thai Development Public Co. Ltd	Thailand	82–4299
Itech Capital Corp	Canada	82–3200
Jamaica Broilers Group Ltd	Jamaica	82–3720
Jannok Properties Ltd	Canada	82–5062
Japan Satellite Systems	Japan	82–5111
Japan Telecom Co	Japan	82–3943
Jardine Matheson Holdings Ltd	Hong Kong	82–2963
Jardine Strategic Holdings Ltd	Bermuda	82–3085
Jasmine International plc	Thailand	82–4876
JC Decaux S.A	France	82–34631
JD Group Limited	South Africa	82–4401
JG Summit Holdings Inc	Philippines	82–3572
Jinhui Holdings Co	Hong Kong	82–3765
Jinhui Shipping and Transportation Ltd	Bermuda	82–4054
JNR Resources Inc	Canada	82–4720
John Keells Holdings Ltd	Sri Lanka	82–3854
Johnnic Communications Ltd	South Africa	82–5184
Johnnic Holdings Ltd	South Africa	82–5128
Johnson Electric Holdings	Hong Kong	82–2416
Johnson Matthey plc	United Kingdom	82–2272
Jordan Kuwait Bank	Jordan	82–5085
JS Central Telecommunication Co	Russia	82–5198
JSC Buryatzoloto	Russia	82–4619
JSC Irkutskenergo	Russia	82–4458
JSC Khantymansiyskokrtelecom	Russia	82–4823
JSC Lenenergo	Russia	82–5102
JSC Moscow City Telephone Network	Russia	82–4957
JSC Nizhegorodsvyasinform	Russia	82–4642
JSC Primorsk Shipping Corp	Russia	82–4717
JSC Uralsvyasinform	Russia	82–4545
JSC Zaporizhtransformator	Ukraine	82–4995
Jumptec Industrielle Computertechnik AG	Germany	82–4989
Justsystem Corp	Japan	82–4732
K Wah Construction Materials Ltd	Hong Kong	82–3850
Kawasaki Heavy Industries Ltd	Japan	82–4389
Kawasaki Steel Corp	Japan	82–3389
Kelso Technologies Inc	Canada	82–2441
Keyworld Investments plc	United Kingdom	82–5193
KGHM Polska Miedz S.A	Poland	82–4639
Kidde plc	United Kingdom	82–5153
Kidston Gold Mines Ltd	Australia	82–2351
Kimberly Clark de Mexico	Mexico	82–3308
King Pacific International Holdings Inc	Bermuda	82–3655
Kingfisher plc	United Kingdom	82–968
Kirin Brewery Co	Japan	82–188
Klabin S.A	Brazil	82–34628
Kobe Steel Ltd	Japan	82–3371
Komercni Banka A.S	Czech Republic	82–4154
Krones AG	Germany	82–3871
Kumba Resources Ltd	South Africa	82–5217
L'Air Liquide S.A	France	82–5224
Landesbank Rheinland-Phalz	Germany	82–4930
Lasik Vision Corp	Canada	82–5031
Lattice Group plc	United Kingdom	82–5110
Legend Holdings Ltd	Hong Kong	82–3950
Lend Lease Corp. Ltd	Australia	82–3498
Lenzing AG	Austria	82–3207
LG Electronics Inc	Korea	82–3857
Liberty Life Association of South Africa	South Africa	82–3924
Lindsey Morden Group	Canada	82–5143
Lingo Media Inc	Canada	82–4877
Lion Land Berhad	Malaysia	82–3342
Loblaw Companies Ltd	Canada	82–4918
Lonrho Africa plc	United Kingdom	82–4753
Louis Dreyfus Citrus S.A	France	82–4505
Lucero Resource Corp	Canada	82–1756
Magician Industries Holdings Inc	Bermuda	82–4358
Magin Energy Inc	Canada	82–5100
Makro Atacadista S.A	Brazil	82–4095
Malbak Ltd	South Africa	82–3751
Man Group plc	United Kingdom	82–4214
Mandarin Oriental International Ltd	Hong Kong	82–2955
Manila Electric Co	Philippines	82–3237
Maple Minerals Inc	Canada	82–3650

Company name	Country	File No.
Market Age plc	United Kingdom	82–5230
Marks and Spencer plc	United Kingdom	82–1961
Matsui Securities Co. Ltd	Japan	82–5215
Maximum Resources Inc	Canada	82–3923
Mayr Melnhof Karton	Austria	82–4052
M-Cell Ltd	South Africa	82–5192
MCK Mining Corp	Canada	82–3938
Medallion Resources Ltd	Canada	82–3656
Menzies Gold N.L	Australia	82–4536
Mercantil Servicios Financieros C.A	Venezuela	82–4648
Meteor Technologies Inc	Canada	82–2442
Metro Cash & Carry Ltd	South Africa	82–4279
Michael Page International plc	United Kingdom	82–5162
Michelin Compagnie Generale des Etablissements	France	82–3354
MIM Holdings Ltd	Australia	82–173
Minebea Co. Ltd	Japan	82–4551
Minto Explorations Ltd	Canada	82–4119
Mishibishu Gold Corp	Canada	82–2682
Misr International Bank S.A.E	Egypt	82–4629
Mitsubishi Corp	Japan	82–3784
Mitsui Marine and Fire Insurance Co. Ltd	Japan	82–4755
MJ Maillis S.A	Greece	82–4975
Mobistar N.V./S.A	Belgium	82–4965
Morgan Crucible Co. plc	United Kingdom	82–3387
Mount Burgess Gold Mining Co	Australia	82–1235
NABI North American Bus Industries RT	Hungary	82–4925
Nadro S.A. de C.V	Mexico	82–4611
Name Brand Sales Inc	Canada	82–5218
Nampak Limited	South Africa	82–3714
National Bank of Canada	Canada	82–3764
Neopost S.A	France	82–5080
Neptune Orient Lines Ltd	Singapore	82–2605
Nestle S.A	Switzerland	82–1252
Netstore plc	United Kingdom	82–5152
New GKN	United Kingdom	82–5204
New World Infrastructure Ltd	Hong Kong	82–4218
New Zurich Financial	Switzerland	82–5089
Newsplayer Group plc	United Kingdom	82–5187
NIB Capital Bank	Netherlands	82–5098
Nippon Steel Corp	Japan	82–5175
Nissan Motor Co	Japan	82–207
Norilsk Nickel	Russia	82–4270
Norilsk Nickel Mining Metallurgical Co	Russia	82–5167
Norske Skogindustrier ASA	Norway	82–5226
North Ltd	Australia	82–2531
Northern Abitibi Mining Corp	Canada	82–4749
Novar plc	United Kingdom	82–4542
Novozymes AS	Denmark	82–5116
NTS Computer Systems Ltd	Canada	82–4354
Nuinsco Resources Ltd	Canada	82–1846
Nutreco Holdings N.V	Netherlands	82–4927
Nyzhniodniprovsky Pipe Rolling Plant	Ukraine	82–4814
OAO Oil Co. Yukos	Russia	82–4209
Occupational & Medical Innovations Ltd	Australia	82–5174
OJS Electrosvyaz Rostov Region	Russia	82–4740
OJS Ukrnafta	Ukraine	82–4859
OJSC Dniproenergo	Ukraine	82–4844
OJSC Electrosvyaz of Novosibirsk Region	Russia	82–5199
OJSC Electrosvyaz of Primorsky Region	Russia	82–5200
OJSC Kubanelectrosvyaz	Russia	82–4721
OJSC Petersburg Telephone Network	Russia	82–5197
Old Mutual plc	United Kingdom	82–4974
Olivetti S.p.A	Italy	82–5181
Omega Projects Co. Ltd	Canada	82–5030
One Steel Ltd	Australia	82–5103
Onfem Holdings Ltd	Bermuda	82–3735
OPP Petroquimica S.A	Brazil	82–4287
Orange S.A	France	82–5168
Orbis S.A	Poland	82–5025
Oriole Systems Inc	Canada	82–5137
Osterreichische Elektrizitatswirtschafts	Austria	82–4381
Pacific Andes Int'l Holdings Ltd	Bermuda	82–4031
Pacific Stratus Ventures Ltd	Canada	82–5158
Pacific Topaz Resources Ltd	Canada	82–1285

Company name	Country	File No.
Pacmin Mining Corp. Ltd	Australia	82–4550
Panafon Hellenic Telecommunications	Greece	82–4969
Paperlinx Ltd	Australia	82–5061
Paranapanema S.A	Brazil	82–5083
Paul Y ITC Construction Holdings Ltd	Hong Kong	82–4217
Pearl Oriental Cyberforce Ltd	Bermuda	82–4350
Perfect Fry Corp	Canada	82–1609
Pernod Ricard S.A	France	82–3361
Pharmexa A.S	Denmark	82–5196
Phoenix Canada Oil Co. Ltd	Canada	82–3936
Pinault Printemps Redoute	France	82–5179
Pinetree Capital Corp	Canada	82–2759
PixelNet AG	Germany	82–5236
Poineer International Ltd	Australia	82–2701
Polski Koncern Naftowy	Poland	82–5036
Power Corp. of Canada	Canada	82–137
Power Financial Corp	Canada	82–1716
Prana Biotechnology Ltd	Australia	82–5122
Prokom Software S.A	Poland	82–4700
Promatek Industries Ltd	Canada	82–1351
Promise Co. Ltd	Japan	82–4837
Promotora de Informaciones	Spain	82–5213
Provimi	France	82–5212
PSP Swiss Property AG	Switzerland	82–5052
PT Multimedia Servicos de Telecommunicacoes	Portugal	82–5059
PTT Exploration & Production plc	Thailand	82–3827
Puma AG Rudolf Dassler Sport	Germany	82–4369
Q P Corporation	Japan	82–4750
Quantas Airways	Australia	82–4130
Rabobank Nederland	Netherlands	82–5010
Radio Gaucha S.A	Brazil	82–4341
Raffles Medical Group	Singapore	82–4926
RAO Gazprom	Russia	82–4670
RAO Unified Energy Systems	Russia	82–4077
Raptor Capital Corporation	Canada	82–4599
Raytec Capital Corp	Canada	82–3553
RBS Participacoes S.A	Brazil	82–4338
RBS TV de Florianopolis S.A	Brazil	82–4340
Redmond Ventures Corp	Canada	82–842
Rembrandt S.A. Ltd	South Africa	82–5106
Rentokil Group plc	United Kingdom	82–3806
Resorts World Berhad	Malaysia	82–3229
Rhodia-Ster S.A	Brazil	82–3942
Rich Minerals Corp	Canada	82–2832
Roadshow Holdings Ltd	Bermuda	82–5208
Roche Holding Ltd	Switzerland	82–3315
Rock Resources Inc	Canada	82–4504
Rolls-Royce plc	United Kingdom	82–2821
Romios Gold Resources	Canada	82–5093
Rosneftegazstroy	Russia	82–4597
RWE AG	Germany	82–4018
S Oil Corp	Korea	82–34630
S&T System Integration Technology	Austria	82–34634
S.A. Fabrica de Productos Alimenticios	Brazil	82–4870
Sage Group Ltd	South Africa	82–4241
Sahaviriya Steel Industries plc	Thailand	82–5008
SAIA-Burgess Electronics	Switzerland	82–4810
Sainsbury J. plc	United Kingdom	82–913
Saipem S.p.A	Italy	82–4776
Sakura Bank Ltd	Japan	82–3055
Sammy Corporation	Japan	82–5227
Sam's Seafood Holdings Ltd	Australia	82–34648
Samsung Electronics Co. Ltd	Korea	82–3109
Sancor Cooperativas Unidas Ltd	Argentina	82–4476
Sandvik AB	Sweden	82–1463
Santos Ltd	Australia	82–34
Sanwa Bank Ltd	Japan	82–4711
Sanyo Electric Co	Japan	82–264
Saskatchawan Wheat Pool	Canada	82–5037
Sasol Ltd	South Africa	82–631
Scandanavia Online A.B	Sweden	82–5178
Schwartz Pharma AG	Germany	82–34641
Sekisui House Ltd	Japan	82–5129
Sembcorp Industries Ltd	Singapore	82–5109

Company name	Country	File No.
Sennen Resources	Canada	82–2238
Shanghai Industrial Holdings Ltd	China	82–5160
Shangra La Asia Ltd	Bermuda	82–5006
Sharp Corp	Japan	82–1116
Shinawata Satellite Public Co. Ltd	Thailand	82–4527
Shiseido Company Ltd	Japan	82–3311
Shun Tak Holdings	Hong Kong	82–3357
SIA Engineering Co. Ltd	Singapore	82–5123
Siam Commercial Bank Public Co. Ltd	Thailand	82–4345
Sigma AB	Sweden	82–5228
Silverarrow Explorations Inc	Canada	82–2945
Sime Darby Berhad	Malaysia	82–4968
Simsmetal Ltd	Australia	82–3838
Singapore Airport Terminal Services Ltd	Singapore	82–5117
Singapore Telecommunications Ltd	Singapore	82–3622
Singer N.V	Netherlands	82–34635
Skandia Insurance Co. Ltd	Sweden	82–5079
Sky Perfect Communications	Japan	82–5113
Slovnaft A.S	Russia	82–3721
Smartone Telecommunications	Bermuda	82–5114
Smith Howard Ltd	Australia	82–4538
Societe Generale	France	82–3501
Sogecable S.A	Spain	82–4981
Sons of Gwalia N.L	Australia	82–1039
South China Morning Post	Hong Kong	82–3327
Southcorp Holdings Ltd	Australia	82–2692
Southern Pacific Petroleum N.L	Australia	82–353
St. Dupont S.A	France	82–4552
St. Jude Resources Ltd	Canada	82–4014
Standard Chartered plc	United Kingdom	82–5188
Starlight International Holdings Ltd	Bermuda	82–3594
Starrex Mining Corp	Canada	82–3755
State Bank of India	India	82–4524
Statoil den Norske Stats Oljeselskap AS	Norway	82–3444
Stina Resources Ltd	Canada	82–2062
Stratabound Minerals Corp	Canada	82–3284
Strategic Technologies Inc	Canada	82–1548
Studsvisk AB	Sweden	82–5172
Sumitomo Minerals Corp	Japan	82–3507
Sumitomo Mitsui Banking Corp	Japan	82–4395
Sumitomo Trust & Banking Co. Ltd	Japan	82–4617
Sun Hung Kai Properties Ltd	Hong Kong	82–1755
Svenka Cellulosa Aktiebologot	Sweden	82–763
Svyazinform of Samara	Russia	82–4889
Swire Pacific Ltd	Hong Kong	82–2184
Swiss Reinsurance Co	Switzerland	82–4248
Synex International Inc	Canada	82–862
Tabcorp Holdings Ltd	Australia	82–3841
Tai Cheung Holdings Ltd	Bermuda	82–3528
Taylor Nelson AGB plc	United Kingdom	82–4668
Technovision Systems	Canada	82–5069
Telefonica Data Brasil Holding	Brazil	82–5151
Telefonica Data Peru Holding S.A.A	Peru	82–34646
Telefonica Moviles Peru Holding S.A.A	Peru	82–34645
Telepizza	Spain	82–5001
Televisao Gaucha S.A	Brazil	82–4339
Tennyson Networks Ltd	Australia	82–5138
TFS	Switzerland	82–5095
Thai Telephone and Telecommunications	Thailand	82–3744
THUS Group plc	United Kingdom	82–34650
Timebeat Com Enterprises Inc	Canada	82–2622
TNR Resources Ltd	Canada	82–4434
Tofas Turk Otomobil Fabrikasi AS	Turkey	82–3699
Tokai Bank Ltd	Japan	82–4811
Tomorrow International Holdings Ltd	Bermuda	82–4256
T-Online International AG	Germany	82–5125
Toyobo Co	Japan	82–1172
Toyoda Automatic Loom Works	Japan	82–5112
Toys "R" Us Japan Ltd	Japan	82–5073
Tradehold Ltd	South Africa	82–5238
Transportadora de Gas del Norte S.A	Argentina	82–3845
Trio Gold Corp	Canada	82–2127
Truly International Holdings	Cayman Islands	82–3700
Trust Company of Australia Ltd	Australia	82–1443

Company name	Country	File No.
Tsingtao Brewery Company Ltd	China	82–4021
Tullow Oil plc	United Kingdom	82–5202
Tyumen Air Company	Russia	82–4789
UJF Holdings Inc	Japan	82–5169
Unaxis AG	Switzerland	82–34643
UNI President Enterprises Co	Taiwan	82–3424
Union Miniere S.A	Belgium	82–3876
United Bank for Africa plc	Nigeria	82–4804
United Media Ltd	Canada	82–3859
USA Video Interactive Corp	Canada	82–1601
Usinas Siderurgicas de Minas Gerais S.A	Brazil	82–3902
Valeo S.A	France	82–3668
Valerie Gold Resources Ltd	Canada	82–3339
Vanguard Oil Corp	Canada	82–5148
Vedior N.V	Netherlands	82–4654
Velcro Industries. N.V	Neth. Ant.	82–145
Venfin Ltd	South Africa	82–3760
Veos plc	United Kingdom	82–5220
Viceroy Resource Corp	Canada	82–1193
Viktor Lenac Shipyard D.D. Rijeka	Croatia	82–5219
Village Roadshow Ltd	Australia	82–4513
Vinci	France	82–4781
Virotec International Ltd	Australia	82–5090
Vodafone Telecel Comunicacoe Pessoais S.A	Portugal	82–4528
Vodatel Networks Holdings Ltd	Bermuda	82–5146
Voyager Financial News.com	United Kingdom	82–5141
Voyagerit.com plc	United Kingdom	82–5140
VRX Worldwide Inc	Canada	82–4669
Vtech Holdings Ltd	Bermuda	82–3565
Walmart de Mexico S.A. de C.V	Mexico	82–4609
Wanadoo	France	82–5150
Western Pinnacle Mining Ltd	Canada	82–2418
Westone Ventures Inc	Canada	82–4890
Wienerberger Baustoffindustrie AG	Austria	82–4316
Windarra Minerals Ltd	Canada	82–561
Wing Tai Holdings Ltd	Singapore	82–4632
Woodside Petroleum Ltd	Australia	82–2280
Wrightson Ltd	New Zealand	82–3646
X-Cal Resources Ltd	Canada	82–1655
Yaroslavsky OJS Company of Energy & Electric	Russia	82–5144
Yeebo International Holdings Ltd	Bermuda	82–3869
Zero Hora-Editora Jornalistica S.A	Brazil	82–4337
Zhejiang Expressway Co. Ltd	China	82–34629
Zhejiang Southeast Electric Power Co. Ltd	China	82–34633

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45849; File No. SR–MSRB–2002–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Transactions With Sophisticated Municipal Market Professionals

April 30, 2002.

On January 25, 2002, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b-4 thereunder,[2] the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change relating to transactions with sophisticated municipal market professionals.

The Commission published the proposed rule change for comment in the **Federal Register** on February 12, 2002.[3] The Commission received four comment letters relating to the forgoing proposed rule change. This order approves the proposal.

I. Description of the Proposed Rule Change

The MSRB's proposed rule change provides an interpretation of the duties under Rules G–13, G–17, G–18, and G–19[4] with regard to transactions involving sophisticated municipal market professionals. The MSRB proposed this rule change because it believes that dealers may consider the nature of the institutional customer in determining what specific actions are necessary to meet the fair practice standards for a particular transaction. The MSRB's proposal concerns only the manner in which a dealer determines that it has met certain of its fair practice obligations to certain institutional customers; it does not alter the basic duty to deal fairly, which applies to all transactions and all customers.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Release No. 34–45364 (January 30, 2002), 67 FR 6294.

[4] The general rules are as follows: Rule G–13, Quotations Relating to Municipal Securities; Rule G–17, Conduct of Municipal Securities Activities; Rule G–18, Execution of Transactions; and Rule G–19, Suitability of Recommendations and Transactions; Discretionary Accounts.

[5] The proposed rule change describes institutional customer as ''an entity, other than a natural person (corporation, partnership, trust, or otherwise), with total assets of at least $100 million invested in municipal securities in the aggregate in its portfolio and/or under management.'' *See*

Continued

In the proposed rule change notice, the MSRB clarified the definition of sophisticated municipal market professional (''SMMP''). Not all institutional customers are sophisticated regarding investments in municipal securities. There are three important considerations with respect to the nature of an institutional customer in determining the scope of a dealer's fair practice obligations. When a dealer has reasonable grounds for concluding that an institutional customer (i) has timely access to the publicly available material facts concerning a municipal securities transaction;[6] (ii) is capable of independently evaluating the investment risk and market value of the municipal securities at issue;[7] and (iii) is making independent decisions about its investments in municipal securities, and other known facts do not contradict such a conclusion,[8] the institutional customer can be considered an SMMP.[9] While the scope of a dealer's fair practice obligations depends on the particular transaction, by making a reasonable determination that an institutional customer is an SMMP, certain of the dealer's fair practice obligations remain applicable but are deemed fulfilled. In addition, as discussed below, the fact that a quotation is made by an SMMP would have an impact on how such quotation is treated under rule G–13.

Application of SMMP Concept to Rule G–17's Affirmative Disclosure Obligations

As it applies to rule G–17, the SMMP concept recognizes that the actions of a dealer, in compliance with affirmative disclosure obligations under rule G–17, when effecting non-recommended secondary market transactions may depend on the nature of the customer. When a dealer has reasonable grounds for concluding that the institutional customer is an SMMP, the institutional customer, by definition, is already aware, or capable of making itself aware of, material facts and is able to independently understand the significance of the material facts available from established industry sources.[10] When the dealer has reasonable grounds for concluding that the customer is an SMMP then the dealer's obligation when effecting non-recommended secondary market transactions to ensure disclosure of material information available from established industry sources is fulfilled. There may be times when an SMMP is not satisfied that the information available from established industry sources is sufficient to allow it to make an informed investment decision. In those circumstances, the MSRB believes that an SMMP can recognize that risk and take appropriate action, be it declining to transact, undertaking additional investigation or asking the dealer to undertake additional investigation.

This interpretation does nothing to alter a dealer's duty not to engage in deceptive, dishonest, or unfair practices under rule G–17 or under the federal securities laws. In essence, a dealer's disclosure obligations to SMMPs when effecting non-recommended secondary market transactions would be on par with inter-dealer disclosure obligations. This interpretation will be particularly relevant to dealers operating electronic trading platforms, although it will also apply to dealers who act as order takers over the phone or in-person.[11] This interpretation recognizes that there is no need for a dealer in a non-recommended secondary market transaction to disclose material facts available from established industry sources to an SMMP customer that already has access to the established industry sources.[12]

As in the case of an inter-dealer transaction, in a transaction with an SMMP, a dealer's intentional withholding of a material fact about a security, where the information is not accessible through established industry sources, may constitute an unfair practice violative of rule G–17. In addition, a dealer may not knowingly misdescribe securities to the customer. A dealer's duty not to mislead its customers is absolute and is not dependent upon the nature of the customer.

Application of SMMP Concept to Rule G–18 Interpretation—Duty to Ensure That Agency Transactions Are Effected at Fair and Reasonable Prices

Rule G–18 requires that each dealer, when executing a transaction in municipal securities for or on behalf of a customer as agent, make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions.[13] The

Release No. 34–45364 (January 30, 2002), 67 FR 6294.

[6] A determination of ''timely access to the publicly available material facts'' will depend on the customer's resources and the customer's ready access to established industry sources for disseminated material information. Considerations include, but are not limited to, the following: resources available to the institutional customer to investigate the transaction; the institutional customer's independent access to the NRMSIR system and the MSRB's MSIL system; and the institutional customer's access to other sources of information concerning material finance developments. *See id.*

[7] To determine if an institutional customer is ''capable of independently evaluating the investment risk and market value'' depend on examination of that customer's ability to make its own investment decisions. Relevant considerations include, but are not limited to, the following: the use of one or more consultants, investment advisers, research analysts or bank trust departments; the general level of municipal securities market expertise of the institutional customer and expertise in the municipal securities under consideration; the institutional customer's ability to understand economic features of municipal securities; the institutional customer's ability to independently evaluate how market developments affect the municipal security under consideration; and the complexity of the municipal securities involved. *See id.*

[8] ''Independent investment decisions'' depend on the institutional customer's own thorough independent assessment of opportunities and risks presented by the potential investment, market forces, etc. Relevant considerations include, but are not limited to, the following: Any written or oral understanding that exists between the dealer and the institutional customer regarding the nature of the relationship and services between the dealer and the customer; the presence or absence of a pattern of acceptance of the dealer's recommendations; the use by the institutional customer of ideas, suggestions, market views and information obtained from sources other than the dealer; the extent to which whether the dealer has received from the institutional customer current comprehensive portfolio information in connection with municipal securities transactions. *See id.*

[9] Dealers are advised that they have the option of having investors attest to SMMP status as a means of streamlining the dealers' process for determining that the customer is an SMMP. However, a dealer would not be able to rely upon a customer's SMMP attestation if the dealer knows or has reason to know that an investor lacks sophistication concerning a municipal securities transaction.

[10] The MSRB filed a related notice regarding the disclosure of material facts under rule G–17 concurrently with this filing. See File No. SR-MSRB–2002–01. The MSRB's rule G–17 notice provides that a dealer would be responsible for disclosing to a customer any material fact concerning a municipal security transaction (regardless of whether such transaction had been recommended by the dealer) made publicly available through sources such as the NRMSIR system, the MSIL® system, TRS, rating agency reports and other sources of information relating to the municipal securities transaction generally used by dealers that effect transactions in municipal securities (collectively, ''established industry sources'').

[11] For example, if an SMMP reviewed an offering of municipal securities on an electronic platform that limited transaction capabilities to broker-dealers and then called up a dealer and asked the dealer to place a bid on such offering at a particular price, the interpretation would apply because the dealer would be acting merely as an order taker effecting a non-recommended secondary market transaction for the SMMP.

[12] In order to meet the definition of an SMMP an institutional customer must, at least, have access to established industry sources.

[13] This guidance only applies to the actions necessary for a dealer to ensure that its agency transactions are effected at fair and reasonable prices. If a dealer engages in principal transactions with an SMMP, rule G–30(a) applies and the dealer is responsible for a transaction-by-transaction review to ensure that it is charging a fair and reasonable price. In addition, rule G–30(b) applies to the commission or service charges that a dealer operating an electronic trading system may charge to effect the agency transactions that take place on its system.

actions that a dealer must take to make reasonable efforts to ensure that its non-recommended secondary market agency transactions with customers are effected at fair and reasonable prices may be influenced by the nature of the customer as well as by the services explicitly offered by the dealer.

If a dealer effects non-recommended secondary market agency transactions for SMMPs and its services have been explicitly limited to providing anonymity, communication, order matching and/or clearance functions and the dealer does not exercise discretion as to how or when a transaction is executed, then the MSRB believes the dealer is not required to take further actions on individual transactions to ensure that its agency transactions are effected at fair and reasonable prices.[14] By making the determination that the customer is an SMMP, the dealer necessarily concludes that the customer has met the requisite high thresholds regarding timely access to information, capability of evaluating risks and market values, and undertaking of independent investment decisions that would help ensure the institutional customer's ability to evaluate whether a transaction's price is fair and reasonable.

This interpretation will be particularly relevant to dealers operating alternative trading systems in which participation is limited to dealers and SMMPs. It clarifies that in such systems rule G–18 does not impose an obligation upon the dealer operating such a system to investigate each individual transaction price to determine its relationship to the market. The MSRB recognizes that dealers operating such systems may be merely aggregating the buy and sell interest of other dealers or SMMPs. This function may provide efficiencies to the market. Requiring the system operator to evaluate each transaction effected on its system may reduce or eliminate the desired efficiencies. Even though this interpretation eliminates a duty to evaluate each transaction, a dealer operating such system, under the general duty set forth in rule G–18, must act to investigate any alleged pricing irregularities on its system brought to its attention. Accordingly, a dealer may be subject to rule G–18 violations if it fails to take actions to address system or participant pricing abuses.

If a dealer effects agency transactions for customers who are not SMMPs, or has held itself out to do more than provide anonymity, communication, matching and/or clearance services, or performs such services with discretion as to how and when the transaction is executed, it will be required to establish that it exercised reasonable efforts to ensure that its agency transactions with customers are effected at fair and reasonable prices.

Application of SMMP Concept to Rule G–19 Interpretation—Suitability of Recommendations and Transactions

The MSRB's suitability rule is fundamental to fair dealing and is intended to promote ethical sales practices and high standards of professional conduct. Dealers' responsibilities include having a reasonable basis for recommending a particular security or strategy, as well as having reasonable grounds for believing the recommendation is suitable for the customer to whom it is made. Dealers are expected to meet the same high standards of competence, professionalism, and good faith regardless of the financial circumstances of the customer. Rule G–19, on suitability of recommendations and transactions, requires that, in recommending to a customer any municipal security transaction, a dealer shall have reasonable grounds for believing that the recommendation is suitable for the customer based upon information available from the issuer of the security or otherwise and based upon the facts disclosed by the customer or otherwise known about the customer.

This guidance concerns only the manner in which a dealer determines that a recommendation is suitable for a particular institutional customer. The manner in which a dealer fulfills this suitability obligation will vary depending on the nature of the customer and the specific transaction. Accordingly, this interpretation deals only with guidance regarding how a dealer will fulfill such ''customer-specific suitability obligations'' under rule G–19. This interpretation does not address the obligation related to suitability that requires that a dealer have a ''reasonable basis'' to believe that the recommendation could be suitable for at least some customers. In the case of a recommended transaction, a dealer may, depending upon the facts and circumstances, be obligated to undertake a more comprehensive review or investigation in order to meet its obligation under rule G–19 to have a ''reasonable basis'' to believe that the recommendation could be suitable for at least some customers. [15]

The manner in which a dealer fulfills its ''customer-specific suitability obligations'' will vary depending on the nature of the customer and the specific transaction. While it is difficult to define in advance the scope of a dealer's suitability obligation with respect to a specific institutional customer transaction recommended by a dealer, the MSRB has identified the factors that define an SMMP as factors that may be relevant when considering compliance with rule G–19. Where the dealer has reasonable grounds for concluding that an institutional customer is an SMMP, then a dealer's obligation to determine that a recommendation is suitable for that particular customer is fulfilled.

This interpretation does not address the facts and circumstances that go into determining whether an electronic communication does or does not constitute a customer-specific ''recommendation.''

Application of SMMP Concept to Rule G–13, on Quotations

New electronic trading systems provide a variety of avenues for disseminating quotations among both dealers and customers. In general, except as described below, any quotation disseminated by a dealer is presumed to be a quotation made by such dealer. In addition, any ''quotation'' of a non-dealer (e.g., an investor) relating to municipal securities that is disseminated by a dealer is presumed, except as described below, to be a quotation made by such dealer.[16] The dealer is affirmatively responsible in either case for ensuring compliance with the bona fide and fair market value

[14] Similarly, the MSRB believes the same limited agency functions can be undertaken by a broker's broker toward other dealers. For example, if a broker's broker effects agency transactions for other dealers and its services have been explicitly limited to providing anonymity, communication, order matching and/or clearance functions and the dealer does not exercise discretion as to how or when a transaction is executed, then the MSRB believes the broker's broker is not required to take further actions on individual transactions to ensure that its agency transactions with other dealers are effected at fair and reasonable prices.

[15] *See e.g.*, Rule G–19 Interpretation—Notice Concerning the Application of Suitability Requirements to Investment Seminars and Customer Inquiries Made in Response to a Dealer's Advertisement, May 7, 1985, MSRB Rule Book (July 1, 2001) at 135; In re F.J. Kaufman and Company of Virginia, 50 S.E.C. 164, 168, 1989 SEC LEXIS 2376, *10 (1989). In a 1988 Release, the Commission's discussion of municipal underwriters' responsibilities noted that ''a broker-dealer recommending securities to investors implies by its recommendation that it has an adequate basis for the recommendation.'' Municipal Securities Disclosure, Release No. 34–26100 (September 22, 1988) (the ''1988 SEC Release'') at text accompanying note 72.

[16] A customer's bid for, offer of, or request for bid or offer is included within the meaning of a ''quotation' if it is disseminated by a dealer.

requirements with respect to such quotation.

However, if a dealer disseminates a quotation that is actually made by another dealer and the quotation is labeled as such, then the quotation is presumed to be a quotation made by such other dealer and not by the disseminating dealer. Furthermore, if an SMMP makes a ''quotation'' and it is labeled as such, then it is presumed not to be a quotation made by the disseminating dealer; rather, the dealer is held to the same standard as if it were disseminating a quotation made by another dealer.[17] In either case, the disseminating dealer's responsibility with respect to such quotation is reduced. Under these circumstances, the disseminating dealer must have no reason to believe that either: (i) The quotation does not represent a bona fide bid for, or offer of, municipal securities by the maker of the quotation or (ii) the price stated in the quotation is not based on the best judgment of the maker of the quotation of the fair market value of the securities.

While rule G–13 does not impose an affirmative duty on the dealer disseminating quotations made by other dealers or SMMPs to investigate or determine the market value or bona fide nature of each such quotation, it does require that the disseminating dealer take into account any information it receives regarding the nature of the quotations it disseminates. Based on this information, such a dealer must have no reason to believe that these quotations fail to meet either the bona fide or the fair market value requirement and it must take action to address such problems brought to its attention. Reasons for believing there are problems could include, among other things, (i) complaints received from dealers and investors seeking to execute against such quotations, (ii) a pattern of a dealer or SMMP failing to update, confirm or withdraw its outstanding quotations so as to raise an inference that such quotations may be stale or invalid, or (iii) a pattern of a dealer or SMMP effecting transactions at prices that depart materially from the price listed in the quotations in a manner that consistently is favorable to the party making the quotation.[18]

In a prior MSRB interpretation stating that stale or invalid quotations published in a daily or other listing must be withdrawn or updated in the next publication, the MSRB did not consider the situation where quotations are disseminated electronically on a continuous basis.[19] In such case, the MSRB believes that the bona fide requirement obligates a dealer to withdraw or update a stale or invalid quotation promptly enough to prevent a quotation from becoming misleading as to the dealer's willingness to buy or sell at the stated price. In addition, although not required under the rule, the MSRB believes that posting the time and date of the most recent update of a quotation can be a positive factor in determining whether the dealer has taken steps to ensure that a quotation it disseminates is not stale or misleading.

II. Summary of Comments

The Commission received five letters for comment on the proposal.[20] Of the five letters received, one expressed support[21] for the proposed rule change and the other four expressed concerns with the current form of the proposal.[22]

The comment letter received from TBMA stated that it ''strongly supported'' the MSRB's embrace of the sophisticated municipal market professional concept.[23] In their comment letter, the TBMA asserted that the MSRB's proposed rule change would advance the benefits resulting from on-line municipal security trading platforms. TBMA foresees that this proposal will allow trading platforms to ''simplify their regulatory obligations, cut costs, and improve their ability to compete''.[24] In addition, TBMA expressed its expectation the sophisticated municipal market professional concept will benefit all investors ''by improved liquidity and transparency throughout the municipal market.''[25]

The four letters opposing the MSRB's proposed rule change stated various customer protection concerns. Opponents foresee a reduction in a dealer's fair dealing standard resulting from this proposal. Collectively, these comment letters expressed trepidation with unintended consequences from the proposal in its current form.

The letter from ICI initially favors the concept of reducing certain obligations with transactions involving sophisticated municipal market professionals; however, the ICI does not favor the proposal's current draft form. The ICI states that it is ''disappointed that the MSRB did not accept our recommendations and revise its interpretive notice accordingly.''[26] Specifically, ICI requested that the MSRB make the following revisions: (1) Limit to the proposal's applicability to electronic trading platforms; and (2) exclude from the sophisticated municipal market professional safe harbor certain securities that are exempt from continuing disclosure requirements of the Exchange Act's Rule 15c2–12.[27] Without the inclusion of their request, ICI urges the MSRB to closely monitor the proposal's impact, if any, on the dissemination of secondary market disclosure.[28]

The letter from Fidelity presented a concern of an ensuing compromise of customer protections within the institutional market.[29] In reference to its agreement with ICI's position, Fidelity requested that the MSRB revise its proposal to: (1) limit the proposal's applicability to electronic trading platforms; and (2) exclude from the sophisticated municipal market professional safe harbor certain securities that are exempt from continuing disclosure requirements of the Exchange Act's Rule 15c2–12.[30] Additionally, Fidelity added emphasis to a commitment of protecting mutual fund and money market fund investors.

[17] The disseminating dealer need not identify by name the maker of the quotation, but only that such quotation was made by another dealer or an SMMP, as appropriate.

[18] The MSRB believes that, consistent with its view previously expressed with respect to ''bait-and-switch'' advertisements, a dealer that includes a price in its quotation that is designed as a mechanism to attract potential customers interested in the quoted security for the primary purpose of drawing such potential customers into a negotiation on that or another security, where the quoting dealer has no intention at the time it makes the quotation of executing a transaction in such security at that price, could be a violation of rule G–17. *See* Rule G–21 Interpretive Letter—Disclosure Obligations, MSRB Interpretation of May 21, 1998, MSRB Rule Book (July 1, 2001) at p. 139.

[19] *See* Rule G–13 Interpretation, Notice of Interpretation of Rule G–13 on Published Quotations, April 21, 1988, MSRB Rule Book (July 1, 2001) at 91.

[20] *See* letter from Lynnette Kelly Hotchkiss, Senior Vice President and Associate General Counsel, The Bond Market Association (''TBMA''), to Mr. Jonathan Katz, Secretary, Commission, dated March 1, 2002; letter from James C. White, Senior Vice President, Schwab Capital Markets, Charles Schwab (''Schwab''), to Jonathan G. Katz, Secretary, Commission, dated March 4, 2002; letter from Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute (''ICI''), to Mr. Jonathan G. Katz, Secretary, Commission, dated March 4, 2002; letter from Stanley N. Griffith, Vice President/Associate General Counsel, Fidelity Management & Research Co., Fidelity Investments (''Fidelity''), to Jonathan G. Katz, Secretary, Commission, dated March 13, 2002; letter from Ian MacKinnon, Managing Director, The Vanguard Group (''Vanguard''), to Jonathan G. Katz, Commission, dated March 25, 2002.

[21] *See* letter from TMBA, note 20, *supra*.

[22] *See* letters from Schwab, ICI, and Fidelity, note 20, *supra*.

[23] *See* letter from TBMA, note 20, *supra*.

[24] [24]*Id.*

[25] [25]*Id.*

[26] *See* letter from ICI, note 20, *supra*.

[27] *Id.*

[28] *Id.*

[29] *See* letter from Fidelity, note 20, *supra*.

[30] *Id.*

Fidelity asserted that reducing a dealer's role in disseminating secondary market disclosure ''runs completely counter to the policy underpinnings of the investor protection provisions of the Investment Company Act of 1940 * * * including preserving liquidity * * * and providing adequate information''.[31]

Similar to Fidelity's letters asserting concerns with the proposal's negative impact on municipal mutual funds and money market funds, Vanguard cites the interpretation's appearance of eliminating a dealer's obligation to make suitability determinations.[32] To avoid dilution of disclosure information, Vanguard recommends that the MSRB insert a carve-out for Rule G–19. According to the letter, Vanguard's opinion is that the MSRB has not demonstrated a commensurate benefit to be gained by reducing obligations for SMMPs and thus, should not affect a change that may ''exacerbate the problems caused by the limited disclosure regime for municipal securities''.[33] Vanguard stated that it recognizes that mutual funds and money market fund have their own regulatory compliance responsibilities, nevertheless, Vanguard sees cooperation of dealers as critical investor protection.

The comment letter from Schwab focused on interests of its retail customers. The letter expressed Schwab's agreement in the tremendous benefits the growth of on-line trading brings to the fixed-income marketplace. However, Schwab questioned the encouragement of growth in a ''professionals-only'' platform.[34] In its letter, Schwab stated that its ''principal objection'' to the proposal is the proposal's failure ''to adequately acknowledge and protect the retail investor's right to fully participate in the growing electronic marketplace''.[35] Schwab expressed fear that the proposed rule change will create a two-tiered market in fixed income securities and deny retail investors access to the best market prices.[36]

III. Discussion

The Commission must approve a proposed MSRB rule change if the Commission finds that the proposal is consistent with the requirements set forth under the Exchange Act, the rules and regulations thereunder, which govern the MSRB.[37] The language of Section 15B(b)(2)(C) of the Exchange Act requires that the MSRB's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitiating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general, to protect investors and the public interest.[38]

After careful review, the Commission finds that the MSRB's proposed rule change consisting of an interpretation of transactions with sophisticated municipal market professionals meets this standard. The Commission believes that this proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder. In particular, the Commission finds that the proposed rule is consistent with the requirements of Section 15B(b)(2)(C) of the Exchange Act, set forth above.

IV. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Exchange Act,[39] that the proposed rule change (File No. SR-MSRB–2002–02) be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[40]

Jill M. Peterson,

Assistant Secretary.

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[31] *Id.*

[32] *See* letter from Vanguard, note 20, *supra.*

[33] *Id.*

[34] *See* letter from Schwab, note 20, *supra.*

[35] *Id.*

[36] *Id.*

[37] Additionally, in approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[38] 15 U.S.C. 78o–4(b)(2)(c).

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to the address listed above.

1. Letter to Landlord Requesting Rental Information—0960–0454. Form SSA–L5061 is used by SSA to provide a nationally uniform vehicle for collecting information from landlords in making a rental subsidy determination in the Supplemental Security Income (SSI) Program. The information is used in deciding whether income limits are met for SSI eligibility. The respondents are landlords who provide subsidized rental arrangements to SSI applicants and recipients.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 8,167.

2. Continuation of Full Benefit Standard for Persons Institutionalized—0960–0516. SSA is required by law to establish procedures for collecting information on whether an SSI recipient who becomes institutionalized (e.g., hospital, nursing home) may be eligible for continued benefits, based on the full federal benefit rate, if a physician certifies that he expects the period of medical confinement will last no more than 90 days. The individual (or someone acting on his behalf) must demonstrate that he needs to pay some or all of the expenses of maintaining the home to which he expects to return. The respondents are applicants for SSI benefits.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 5,000 hours.

3. Inquiry To File an SSI Child's Application—0960–0557. The information collected on Form SSRO–3–293 (formerly SSA–293) is used by SSA to document the earliest possible filing date and to determine potential eligibility for SSI child's benefits. The respondents are individuals, such as hospital social workers, who inquire about SSI eligibility for low birth weight babies.

Number of Respondents: 2,100.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Average Burden: 105 hours.

4. Supplemental Security Income Notice of Interim Assistance Reimbursement (Two Forms)—0960–0546. Form SSA–8125 and SSA–L8125–F6 collect interim assistance reimbursement (IAR) information from the States that provide such assistance. Form SSA–8125 is used in situations where IAR can be distributed directly to the recipient after the State has deducted the amount of assistance it provided. Form SSA–L8125–F6 is used in situations where a recipient entitled to underpayments has received IAR from a State and SSA will control the benefit through the installment process. SSA uses the information collected through these forms for accounting and auditing purposes in administering the IAR process. The respondents are States that provide IAR to SSI claimants.

	SSA–8125	SSA–L8125–F6
Number of Respondents	50,000	50,000.
Frequency of Response	1	1.
Average Burden Per Response	10 minutes	10 minutes.
Estimated Annual Burden	8,333 hours	8,333 hours.

5. National Employment Activity and Disability Survey —0960–NEW

Background

The Ticket to Work program (TTW) was established by the 1999 Ticket to Work and Work Incentives Improvement Act. The program will provide eligible Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability beneficiaries with a Ticket, which can be used to obtain vocational rehabilitation (VR) or employment services through participating providers, called Employment Networks (ENs).

The reason for the TTW program is that some beneficiaries currently lack the resources necessary to return to work at a level above the Substantial Gainful Activity (SGA) level, either because they do not have easy access to such services, or because they lack the incentive to invest resources in return to work activities because of a variety of factors affecting the decision to work. TTW confers upon a beneficiary a means to access those resources in a less restrictive manner than under the traditional program. The manner in which the program is being implemented is expected to increase beneficiary demand for employment-related services and activities. It is also expected to increase the number and diversity of providers in response to the less restrictive participation requirements and increased consumer demand for services.

The National Employment Activity and Disability Survey

The National Employment Activity and Disability Survey will collect data on the work-related activities of SSI and Old Age, Survivors and Disability Insurance (OASDI) beneficiaries as the TTW program, and other initiatives designed to improve beneficiary employment outcomes, are implemented. The TTW Survey is specifically designed to be a significant resource for the formal evaluation of TTW, but SSA anticipates that the survey will provide useful information for a variety of evaluation and policy analysis purposes, especially related to current efforts that attempt to improve return to work. The survey questionnaire focuses on information about beneficiaries and their work-related activities that cannot be obtained from SSA's administrative records. The survey will provide information about: (1) Beneficiaries who assign their Tickets to ENs, and their experience in the program; (2) beneficiaries who do not assign their Tickets, and the reasons why they do not, including involuntary non-participants; (3) the employment outcomes of Ticket users and other beneficiaries; and (4) the use of employment services by Ticket users and other beneficiaries. The respondents will be selected from SSI and OASDI disabled beneficiaries who meet the Ticket to Work program eligibility requirements.

Number of Respondents: 6,557.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated annual Burden: 4,918 hours.

6. Public Information Campaign Collections—0960–0544. SSA uses the information from public broadcasting systems to determine media interest in broadcasting SSA's public information materials. The respondents are radio and television stations.

Number of Respondents: 8,000.

Frequency of Response: 3.

Average Burden Per Response: 1 minute

Estimated Annual Burden: 400.

7. State Mental Institution Policy Review—0960–0110. SSA uses the information collected on Form SSA–9584 to determine whether policies and practices of State mental institutions conform with SSA's regulations in the use of benefits and whether an institution is performing other duties and responsibilities required of a representative payee. The information also provides a basis for conducting an onsite review of the institution and is used in preparing the subsequent report of findings. The respondents are State mental institutions that serve as representative payees.

Number of Respondents: 125.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 125 hours.

8. Record of Supplemental Security Income Inquiry—0960–0140. Form SSA–3462 is completed by SSA personnel via telephone or personal interview, and it is used to determine potential eligibility for SSI benefits. The respondents are individuals who inquire about SSI eligibility for themselves or someone else.

Number of Respondents: 2,341,856.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 195,155 hours.

II. The information collections listed below have been submitted to OMB for

clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to the address listed above.

1. Internet Social Security Disability Report—0960–NEW. The Social Security Act requires applicants to furnish medical and other evidence and information to prove they are disabled. Applicants for disability benefits will be given the option to provide information needed to help determine they are disabled through the Internet. The Internet Social Security Disability Report, which is similar to the Form SSA–3368-BK, Disability Report-Adult, will collect allegations of disability and gather information about the disabling condition and sources of medical evidence. Collecting this information is critical to case development and adjudication. The information on the Disability Report, together with other evidence and information, will be used by State Disability Determination Services (who make disability decisions on behalf of SSA) to develop medical evidence, assess the alleged disability, and make a determination on whether or not the applicant is disabled under the Act. SSA plans to conduct a limited pilot of the Internet Social Security Disability Report followed by national implementation. The respondents are applicants for title II and title XVI disability benefits.

Pilot Burden Hours Estimate

Number of Respondents: 8,400.
Frequency of Response: 1.
Average Burden Per Response: 2 hours.
Estimated annual Burden: 16,800 hours.

National Implementation Burden Hours Estimate

Number of Respondents: 66,000.
Frequency of Response: 1.
Average Burden Per Response: 2 hours.
Estimated annual Burden: 132,000 hours.

2. Employee Work Activity Report—0960–0483. The data collected by SSA on Form SSA–3033 is used to determine if the claimant meets the disability requirements of the law, when the claimant returns to work after the alleged or established onset date of disability. When a possible unsuccessful work attempt or nonspecific subsidy is involved, Form SSA-3033 will be used to request a description of the employee's work effort. The respondents are employers of OASDI and SSI disability applicants and beneficiaries.

Number of Respondents: 12,500.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 3,125 hours.

Dated: May 1, 2002.

Liz Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–11210 Filed 5–6–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4011]

Bureau of Political-Military Affairs; Rescission of Policy of Denial for China National Aero-Technology Import and Export Corporation (CATIC), China National Aero-Technology International Supply Company, CATIC (USA) Inc., Yan Liren and Hu Boru (Employees of CATIC), McDonnell Douglas Corporation, Douglas Aircraft Company and Robert Hitt (Employee of McDonnell Douglas Corporation and Douglas Aircraft Company); Continuation of Policy of Denial for Tal Industries Inc.

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that Public Notice 3195, establishing as a policy of the Department of State the denial of all export applications and other requests of approval pursuant to section 38 of the Arms Export Control Act (''AECA'') is partially rescinded. This rescission applies only to China National Aero-Technology Import and Export Corporation (CATIC), China National Aero-Technology International Supply Company, CATIC (USA) Inc., Yan Liren, Hu Boru, McDonnell Douglas Corporation, Douglas Aircraft Company and Robert Hitt. The Policy of Denial announced in Public Notice 3195 for Tal Industries, Inc. will continue to be in effect.

Public Notice 3195 stated that it would be the Department of State's policy to deny all export license applications and other requests for approval pursuant to section 38 of the AECA, for the export of, or the brokering activity involving the transfer of, defense articles or defense services by, for, or to the aforementioned persons and entities as well as any of their subsidiaries, affiliates, or successor entities.

EFFECTIVE DATE: The date of the dismissal of all charges: July 14, 2000 for Robert Hitt; May 15, 2001 for CATIC, CATIC (USA) Inc., Yan Liren, and Hu Boru; and November 14, 2001 for McDonnell Douglas and Douglas Aircraft.

FOR FURTHER INFORMATION CONTACT: David Trimble, Director, Compliance Division, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 633–2700.

SUPPLEMENTARY INFORMATION: Effective October 19, 2001 the Department of State, pursuant to sections 38 and 42 of the AECA, 22 U.S.C. 2778 and 2791, and 22 CFR 126.7(a)(2) and 126.7(a)(3) of the International Traffic in Arms Regulations (''ITAR''), instituted a policy of denial of all requests for licenses and other written approvals (including all activities under manufacturing license and technical assistance agreements and brokering activities) concerning exports of defense articles and provision of defense services or other transactions involving directly or indirectly CATIC, China National Aero-Technology International Supply Company, CATIC (USA) Inc., Tal Industries, Inc., Yan Liren, Hu Boru, McDonnell Douglas Corporation, Douglas Aircraft Company, and Robert Hitt and any of their affiliates, subsidiaries, or successor entities. Furthermore, the Department precluded the use of any exemptions from licenses or other approvals included in the ITAR except as those exemptions directly pertained to licenses or other written approvals granted prior to October 19, 1999.

This policy of denial was instituted in response to a sixteen-count indictment in the US District Court for the District of Columbia charging CATIC, CATIC (USA) Inc., TAL Industries, Inc., Yan Liren, Hu Boru, McDonnell Douglas Corporation, Douglas Aircraft Company, and Robert Hitt with violating, inter alias, the Export Administration Act of 1979 (EAA), 50 U.S.C. App. 2410 and the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701–1706.

With the exception of TAL Industries, all of the defendants have had their charges dismissed. The charges against Robert Hitt were dismissed on July 14, 2000. Subsequently, on May 15, 2001, the charges against CATIC, CATIC (USA) Inc., Yan Liren, and Hu Boru were dismissed. Finally, on November 14, 2001, the charges against McDonnell Douglas and Douglas Aircraft were

dismissed. TAL Industries Inc., however, was convicted of violating the EAA and was sentenced on May 11, 2001 to five years of corporate probation, payment of a $1 million fine and payment of a special assessment of $200.

As a result, the Department of State has decided to rescind the policy of denial instituted against CATIC, CATIC (USA) Inc., Yan Liren, Hu Boru, and Robert Hitt and against McDonnell Douglas Corporation, Douglas Aircraft Company and any of their subsidiaries, affiliates or succesor entities. The policy of denial against TAL Industries, Inc., in accordance with section 38(g)(4) of the AECA, will continue to be in effect, due to its conviction for violating the EAA.

This action has been taken pursuant to sections 38 and 42 of the AECA, 22 USC 2778 and 22 USC 2791, and sections 126.7 and 127.11 of the ITAR, 22 CFR 126.7(a)(4) and 22 CFR 127.11.

Dated: March 7, 2002.

Lincoln P. Bloomfield, Jr.,

Assistant Secretary of State, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 02–11273 Filed 5–6–02; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4012]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Tibet Development, Professional and Cultural Exchange Project

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for the Tibet Development, Professional and Cultural Exchange Project. U.S.-based public and private non-profit organizations meeting the provisions described in Internal Revenue code section 26 USC 501 (c) (3) may submit proposals that promote understanding between the people of the United States and the people of the Tibetan ethnic group living in China, through professional developmental, educational and cultural projects.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

Announcement Name and Number

All correspondence with the Bureau concerning this RFGP should reference the Tibet Development, Professional and Cultural Exchange Project and reference number: ECA/PE/C/WHAEAP–02–66. Please refer to title and number in all correspondence or telephone calls to the Office of Citizen Exchanges.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizen Exchanges, room 216, SA–44, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone number 202/619–5326, fax number 202/260–0440, or *pmidgett@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer, Raymond H. Harvey, on all other inquiries and correspondence.

To Download a Solicitation Package VIA Internet

The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Program Information

Overview

The Office of Citizen Exchanges welcomes proposals that directly respond to the following thematic areas. Preference will be given to those proposals that incorporate two of the following themes in the submission. Given budgetary limitations, projects for other themes will not be eligible for consideration under the FY–2002 Tibet Development, Professional and Cultural Exchange Project announcement.

Public Health Management

Projects submitted in response to this theme would be aimed at engaging public health leaders to combat the debilitating health problems ethnic Tibetans face in China, from malnutrition to fatal pneumonia, tuberculosis and diarrhea. The program would focus on developing and implementing appropriate public health policies, through seminars, training programs (especially in the areas of inoculations, child nutrition, midwifery, cataract surgery, or cleft palate repair) and outreach to public and private health planners and practitioners, to ensure the optimal welfare and economic viability of ethnic Tibetan communities. (Formal medical education and dispensing of medications are outside the purview of this theme and will not be accepted activities for funding based on exchange guidelines.)

Sustainable Development and Eco-Tourism

Exchanges and development activities funded under this theme would help American and ethnic Tibetan conservationists, tourism planners, and economic development officials share their experience in managing tourism resources and development projects, particularly in ecologically fragile areas, and would contribute to better understanding of conservation and concepts essential to responsible economic development. Local community development projects are invited in such areas as renewable energy, ecotourism, micro-credit, or poverty alleviation projects, including farm technology, animal husbandry, or agricultural marketing. Americans are in a good position to convey to their Tibetan counterparts the importance of sustainable forestry practices and sustainable harvesting of plant resources to short-term and long-term economic prospects.

Vocational Education

Proposals are sought which emphasize vocational training or administration and development of vocational schools targeted towards the practical needs of ethnic Tibetan communities. Successful projects would help influence thinking among those responsible for economic planning in rural and urban areas where Tibetans live. Discussion of how to integrate education planning with economic development initiatives, how to diversify revenue sources, and how to recruit, train and retain strong faculty would all contribute towards dialogue on vocational education, an issue important to both ethnic Tibetans and Americans in a modern and changing economy.

Vocational education may include practical training of entrepreneurs; development of Tibetan-language educational materials (such as Tibetan-English teaching guides or Tibetan-language public health education materials; or development of distance-learning technology solutions for remote rural schools. English-language training projects should focus on in situ training. (Projects seeking funding to support the travel of ethnic Tibetans to the U.S. for English language instruction are outside the purview of this theme and will not be accepted activities for funding under this competition.)

Developing Enterpreneurship

Projects under this theme may focus on the skills ethnic Tibetans, many of whom come from rural backgrounds with rudimentary economies, need to function effectively in a modern economy (e.g. finance, accounting, and language skills). Projects that explore ways that both the government and the private sector can help promote entrepreneurship in sustainable ways, including access to credit, ecologically conscious tourism policies and investment, or English language training for trade or tourism purposes will be favored. Programs that train budding entrepreneurs and develop micro finance programs for them are welcome.

Cultural Preservation

Projects under this theme are aimed to assist ethnic Tibetans in preserving their cultural heritage through programs designed to reduce the threat of pillage of irreplaceable cultural heritage, and to create opportunities to develop long-term strategies for preserving cultural property through training and conservation, museum development, and public education. Projects might include supporting the preservation of cultural sites; objects in a site, museum or similar institution; or forms of traditional cultural expression. The proposals may encompass topics such as museum needs, historic buildings, collections, archaeological sites, rare manuscripts, traditional music and language.

Guidelines

The Office seeks proposals that provide professional experience and where possible, exposure to American life and culture through internships, workshops and other learning-sharing experiences hosted by local institutions. The experiences also will provide Americans the opportunity to learn about Tibetan culture and the social and economic challenges Tibetans face today. While a portion of this funding will be available for travel under these grants to support two-way exchanges, the key aim is to train and assist ethnic Tibetans living in China. Proposals only seeking funding for one-way travel, either Tibetans to travel to the United States or U.S. project personnel to travel to China must provide a clear explanation detailing the rationale for a one-way exchange. Projects in the U.S. should not simply be academic in nature; they should be designed to provide practical, hands-on experience in U.S. public/private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants.

Applicants should identify the local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Specific information about the counterpart organizations' activities and accomplishments is required and should be included in the section on Institutional Capacity. All proposals must contain letters of support specific to the project being proposed from all in-country partner organizations.

Exchanges and training programs supported by the institutional grants from the Bureau should operate at two levels: they should enhance institutional partnerships, and they should offer practical information to individuals and groups to assist them with their professional responsibilities. Strong proposals usually have the following characteristics: a strong existing partnership between a U.S. organization and a dependable in-country institution with a track record of successful project implementation; a proven track record of working in the proposed issue area; cost-sharing from U.S. and/or in-country sources; experienced staff with language facility and a commitment by the staff to monitor projects locally to improve accountability; a clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and a follow-on plan beyond the scope of the Bureau grant. The Bureau would like to see tangible forms of time and money contributed to the project by the prospective grantee institution, as well as funding from third party sources.

Proposals must demonstrate an organization's willingness to consult closely with the Public Affairs Section and other officers at the U.S. Embassy in Beijing and at the U.S. Consulate in Chengdu. Proposal narratives should confirm that all materials developed for the project must acknowledge USG funding for the program as well as intention to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits. Please note that this requirement will be included in the grant document.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that for programs including U.S. internships, grant applicants submit letters tentatively committing host institutions to support the internships. In the selection of Tibetan participants, the Department, the U.S. Embassy in Beijing and the U.S. Consulate in Chengdu retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international development or exchange programs will be limited to $60,000. Applicants must submit a comprehensive budget for the entire program. Grant awards will range from $175,000 to $250,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

The following project costs are eligible for consideration for funding:

1. *Travel costs.* International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs. Please note that Tibetan participants may not travel to the U.S. primarily for English language instruction.

2. *Per Diem.* For the U.S. program, organizations have the option of using a flat $160/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used.

NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/*.

3. *Interpreters:* If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is

provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance:* Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop, and translate materials for participants.

8. *Equipment.* Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. *Working Meal.* The grant budget may provide for only one working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on Friday, June 14, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 12 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHAEAP–02–66, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The program office, the Public Diplomacy section and other elements at the U.S. Embassy in Beijing, and officials at the U.S. Consulate in Chengdu, will review all eligible proposals. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term

mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. For technical projects, foreign experts and their local partners will be required to have the necessary education, training and experience for the work to be undertaken, in addition to language skills where applicable.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful development or exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Applicants should have a multiyear track record of successful work in Tibetan regions of China or other remote parts of Asia.

8. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives should be included with the application.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. *Cost-sharing:* Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through The Conference Report on the FY–2001 Consolidated Appropriation Act that mandated support for 2001 Tibet Professional and Cultural Exchange Project.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 28, 2002.

Rick A. Ruth,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–11274 Filed 5–6–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4010]

Privacy Act of 1974, as Amended: Altered Systems of Records

Notice is hereby given that the Department of State proposes to alter three systems of records, STATE–02, STATE–11 and STATE–20 pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and the Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on April 25, 2002.

It is proposed that due to the expanded scope of the current systems, the altered system descriptions will include revisions and/or additions to all sections except the system name. Changes to the existing system descriptions are proposed in order to reflect more accurately the Office of the Legal Adviser's record-keeping systems and a reorganization of activities and operations. Any persons interested in commenting on the altered systems of records may do so by submitting comments in writing to Margaret Peppe; Chief, Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, DC 20522–6001. These systems of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The altered system descriptions, ''Board of AppellateReview, STATE–02,'' ''Extradition Records, STATE–11,'' and ''Legal Adviser Attorney Employment Application Records, STATE–20,'' will read as set forth below.

Dated: April 25, 2002.

William A. Eaton,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–02

SYSTEM NAME:

Board of Appellate Review Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose appeal in cases involving loss of nationality or the revocation of a passport was decided by the Board of Appellate Review (Board).

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence between the appellant or his/her attorney and the Department, the appellant's passport file*, and copies of decisions rendered by the Board of Appellate Review.

* These records are only held in the Board of Appellate Review Records, STATE–02, for the duration of the review after which they are returned to Passport Records, STATE–26.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 CFR part 7 (Board of Appellate Review); 22 CFR part 50 (Nationality Procedures); 22 CFR part 51 (Passports).

PURPOSE(S):

The information collected and maintained records the actions of the Board of Appellate review which directly affects the citizenship and passports of those who appeal Department of State determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is primarily used:

- By the Board to review individual cases under appeal involving loss of U.S. citizenship and revocation of U.S. passport cases;
- By the Board for its value as a body of precedents and as an analysis of relevant law and regulations;
- By the Department of Justice when seeking assistance in determining the citizenship status and passport eligibility of an individual; and
- By attorneys representing the individual.

Also see the ''Routine Uses'' Paragraph of the PrefatoryStatement published in the **Federal Register** and on our web site at www.foia.state.gov.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, hard copy.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published records schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director; Office of the Legal Adviser; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Board of Appellate Review might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Board of Appellate Review Records to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record and the approximate dates which give the individual cause to believe that the Board of Appellate Review has records about him/her; and preferably his/her social security number.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records and from his/her passport records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1) and (k)(2) records in this system of records may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f).

STATE–11

SYSTEM NAME:

Extradition Records.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520; and overseas at U.S. embassies, U.S. consulates-general and consulates.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals charged with or convicted of an extraditable crime who have fled from the United States and whose return is sought by state or federal law enforcement agencies. Individuals charged with or convicted of an extraditable crime who have been located in the United States and whose return is sought by a foreign government. Individuals charged with or convicted of a state or federal crime in the United States whose return is sought by deportation or expulsion when they have fled the United States for a foreign country.

CATEGORIES OF RECORDS IN THE SYSTEM:

Dossiers documenting U.S. and foreign extradition requests of fugitives who are wanted for trial for, or who have been convicted of, crimes committed within the jurisdiction of the United States or foreign countries. Files may contain the following documents: Correspondence between the Office of the Legal Adviser and the U.S. Department of Justice, state and federal authorities in the U.S., courts of law, attorneys; copies of communications with Foreign Service posts serving as intermediaries in the extradition process; diplomatic correspondence to or from foreign governments; copies of interagency and intra-agency electronic communications; file and attorney notes; supporting documents such as copies of court records of the legal proceedings, including, but not limited to, charging documents such as complaints or indictments, warrants, judgments or conviction records, prosecutor and investigative affidavits, witness statements, applicable legal statutes; and identification information, including photos, fingerprints and identification numbers; committal documents, such as the extradition order, affidavit of waiver, legal briefs and hearing transcript, decision memo to the Secretary of State or to his or her Deputy, and the surrender warrant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of the Department of State); 18 U.S.C. 3181–3196 (Extradition); 22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3904 (Foreign Relations and Intercourse, Functions of the Foreign Service); 22 U.S.C. 3921 (Management of the Foreign Service); and the U.S. Constitution, Art. VI, sec. 2 (Supremacy of the Constitution, Laws and Treaties).

PURPOSE(S):

The information contained in this system of records is collected and maintained by the Office of the Legal Adviser, Law Enforcement and Intelligence in the administration of its responsibility to facilitate U.S. and foreign requests for fugitives subject to extradition requests in accordance with international treaty obligations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is used exclusively to obtain the arrest and extradition of a fugitive who has committed a felony or extraditable crime and who is the subject of an outstanding domestic or foreign warrant of arrest. Extradition requests and documents are sent to the U.S. Embassy or U.S. Consulate resident in the appropriate countries for transmission to the foreign government, including the foreign ministry and law enforcement agencies. Extradition requests received by the U.S. Department of State from a foreign government are transmitted to the U.S. Department of Justice.

Also see the ''Routine Uses'' Paragraph of the Prefatory Statement published in the **Federal Register** and on our web site at www.foia.state.gov.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, hard copy.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Legal Adviser for Law Enforcement and Intelligence, Office of the Legal Adviser; Room 5419; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of the Legal Adviser, Law Enforcement and Intelligence might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Extradition Records to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature; and preferably his/her social security number; and a brief description of the circumstances that caused the creation of the record.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to the records pertaining to themselves should write to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the U.S. Department of Justice, federal and state law enforcement agencies, state and federal courts, offices of the state and federal prosecutors and similar foreign and diplomatic sources, and attorneys representing the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1) and (k)(2) records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

STATE–20

SYSTEM NAME:

Legal Adviser Attorney Employment Application Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All attorney applicants for employment with the Office of the Legal Adviser (including unsuccessful applicants).

CATEGORIES OF RECORD IN THE SYSTEM:

All categories of records may include identifying information, such as but not limited to, name, date of birth, home address, mailing and e-mail addresses, social security number, and home telephone number. The recruitment and employment files may contain any of the following documents as well as related documents not otherwise stated: resumes, interview opinions, letters of recommendation, applicant's writing samples, college transcripts, academic/professional references, and applications for Federal employment and associated attachments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 213.3102(d)&(e)(Excepted service attorney positions); 5 CFR 213.3202(a)(Excepted service student positions); 5 U.S.C. 301 (Management of the Department of State); 22 U.S.C. 2581 (General Authority of Secretary of State); and 22 U.S.C. 2651a (Organization of the Department of State).

PURPOSE(S):

The information contained in this system of records is collected and maintained by the Office of the Legal Adviser in order to fulfill its limited delegation of authority from the Bureau of Human Resources to facilitate the recruiting, processing and appointing of attorneys in the Office of the Legal Adviser.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information in the Legal Adviser Attorney Employment Application Records is used primarily to fill vacancies in the Office of the Legal Adviser. Information contained in the files is used:

- By the Bureau's Attorney Recruitment Committee and Executive Office Staff to screen and evaluate potential candidates;
- By the selecting official(s) for possible consideration and assessment; and

• By the Bureau of Human Resources to eventually complete the employment processing of selectees.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register** and on our web site at www.foia.state.gov.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media and hard copy.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive at which time they will be retired or destroyed in accordance with published records schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director, Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director; Office of the Legal Adviser; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of the Legal Adviser might have records pertaining to themselves should write to the Director, Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street; NW; Washington, DC 20222–6001. The individual must specify that he/she wishes the Legal Adviser Attorney Employment Application Records to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; signature; and the approximate date on which he/she applied for employment with the Office of the Legal Adviser.

RECORDS ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records, the Bureau of Human Resources, educational institutions, the Office of the Legal Adviser, and the references provided by the applicant.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 552a(k)(5), certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

[FR Doc. 02–11165 Filed 5–6–02; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries DenyinG Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with respect to a list of countries denying fair market opportunities for products and suppliers of the United States in airport construction procurements.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (''USTR'') has determined not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

DATES: Effective May 1, 2002.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, 20508.

FOR FURTHER INFORMATION CONTACT: Karissa Kovner, Director for International Procurement Negotiations, (202) 395–3063; or Mélida Hodgson, Associate General Counsel, (202) 395–3582.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Pub. L. 100–223 (codified at 49 U.S.C. 50104) (''the Act''), requires USTR to decide by May 1, 2002, whether any foreign countries have denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the governments of such countries. The list of such countries must be published in the **Federal Register**. For the purposes of the Act, USTR has decided not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 02–11320 Filed 5–6–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Office of the Secretary, Federal Aviation Administration & DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT proposes to establish a new system of records under the Privacy Act of 1974.

EFFECTIVE DATE: June 17, 2002. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

ADDRESSES: Address all comments concerning this notice to Judy Street, Department of Transportation, Federal Aviation Administration, (APF–100), 800 Independence Avenue, SW., Washington, DC 20590, (202) 267–9895.

FOR FURTHER INFORMATION CONTACT: Yvonne L. Coates, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–6964 (telephone), (202) 366–7024 (fax)

Yvonne.Coates@ost.dot.gov (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the above mentioned address. The purpose of this notice is to propose the establishment of a system of records that will enable the Federal Aviation Administration to adequately assess the agency's cost of accomplishing its mission. The data will measure output produced; support management decisions and plans based on the cost information; measure and benchmark the performance of organizations and management; and provide end user services in support of user fees.

DOT/FAA 853

SYSTEM NAME:

Cost Accounting System '' Employee Labor Data.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

U. S. Department of Transportation, Federal Aviation Administration (FAA), Assistant Administrator for Financial Services, 800 Independence Avenue, SW., Washington, DC 20591.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Federal employees of the Federal Aviation Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may include employee labor charging data containing FAA employee's names, current pay period and year-to-date salaries, and hours worked by FAA organizations on a particular project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40101; 49 U.S.C. 40122(g)

PURPOSE(S):

This Cost Accounting System—Employee Labor Data System will enhance the agency's ability to provide the cost of end-user services in support of user fees; measure and benchmark the agency's financial and operational performance; support management decisions and plans based on reliable cost information; measure and control cost of resources consumed and outputs produced; track individual labor cost directly associated with projects/activities and facilitate the distribution of labor charges and actual operating expenses for costing purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

- To contractors, grantees, experts, consultants, detailees, and other non-FAA employees performing or working on a contract, service, grant, cooperative agreement, or other assignment from the Federal government, when necessary to accomplish an agency function related to this system of records.
- To other government agencies when required by law.
- See the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored on Local Area Network drives, magnetic cartridges, diskettes, and may be in hardcopy format when required.

RETRIEVABILITY:

These records are retrieved by the employee's name, organization, and assigned project numbers.

SAFEGUARDS:

Access to the system of records is restricted to authorized users. Each user is granted access with his or her user name and security password. The user privileges of each user are based on his or her assigned access rights. User access to sensitive data is granted only to limited individuals with the approval of management.

RETENTION AND DISPOSAL:

The records are retained and disposed of in accordance with FAA Order 1350.15 item number 2710 (2) (b), General Financial Records. Records are disposed of when 6 years and 3 months old.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Cost Accounting Division (APF–300), 800 Independence Avenue, SW., Washington, DC 20591.

NOTIFICATION PROCEDURES:

Write to the System Manager.

RECORD ACCESS PROCEDURES:

Write to the System Manager. Provide full name and a description of information that you seek, including the time frame during which the records may have been generated. Individuals requesting access must comply with the Department of Transportation's Privacy Act regulations on verification of identity (49 C.F.R. 10.37).

CONTESTING RECORD PROCEDURES:

Write to the System Manager. Identify the information being contested, the reason for contesting it and the correction requested.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from current Privacy Act systems of records, DOT/ALL 11, Integrated Personnel Payroll System (IPPS) and DOT/ALL 7, Departmental Accounting and Financial Information System (DAFIS) and Delphi Accounting System—Management Information Reporting (MIR).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: April 24, 2002.

Yvonne L. Coates,

Privacy Act Coordinator.

[FR Doc. 02–10942 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Office of the Secretary, DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT proposes to establish a new system of records under the Privacy Act of 1974.

EFFECTIVE DATE: June 17, 2002. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

ADDRESSES: Address all comments concerning this notice to Yvonne L. Coates, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–6964 (telephone).

FOR FURTHER INFORMATION CONTACT: Yvonne L. Coates, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–6964 (telephone), (202) 366–7024 (fax) *Yvonne.Coates@ost.dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the above mentioned address.

DOT/ALL 13

SYSTEM NAME:

Internet/Intranet Activity and Access Records.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

The system is located in the Department of Transportation. These offices are located within the Office of the Secretary (OST), Federal Aviation Administration (FAA), the United States Coast Guard (USCG), the Research and Special Programs Administration (RSPA), the Federal Highway Safety Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), the National Highway Safety Administration (NHTSA), the Federal Transit Administration (FTA), the Maritime Administration (MARAD), the Federal Railroad Administration (FRA), the Bureau of Transportation Statistics (BTS), the St. Lawrence Seaway Development Corporation (SLSDC), Transportation Administrative Service Center (TASC), and the Transportation Security Administration (TSA).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

All DOT employees, contractors, or other users authorized or unauthorized who access the Internet/Intranet through any of the authorized DOT network computers or mainframe/enterprise servers, including individuals who send and receive electronic communications, access Internet/Intranet sites, or access system databases, files, or applications from DOT computers or sending electronic communications to DOT computers. An ''Internet/Intranet Access Point'' is one of the authorized gateways, through which all Internet/Intranet traffic passes. For statistical purposes, the system monitors the amount of traffic using different Internet/Intranet protocols, but does not view the content of transmissions (e.g., it does not monitor the text of electronic mail messages).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and reports in this system may include:

1. The source Internet/Intranet Protocol (IP) address of the computer used to make the Internet/Intranet connection.
2. The destination IP address of the site visited (could include URL address)
3. The date and time of the connection
4. The size of the transmission
5. Keywords propagated by Internet/Intranet web sites
6. Technical machine data as the system may generate (e.g., Machine-name field and Medium Access Control [MAC] address from the last device the machine traversed.)
7. Electronic mail systems, including the email address of sender and receiver of the electronic mail message, subject, date, and time.
8. Profile customization purposes to personalize levels of access.
9. Records on user access to DOT's office automation networks as well as denials of access.
10. Records relating to mainframe/enterprise server access.
11. Verification and authorization records.

Logs of Internet/Intranet access and use from a DOT computer generally do not directly contain names or similar personal identifiers. However, for official government business purposes and through research or investigation, an individual whose PC was assigned an IP address at a given time may be identifiable by name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 322, 49 U.S.C. 40122(g), 49 U.S.C. 40101, 40 U.S.C. 1441, 5 U.S.C. 302

PURPOSES:

Data in the system of records is used by DOT systems and security personnel or persons authorized to assist these personnel, to plan and manage systems services and otherwise perform their official duties. Such services would include, but are not limited to, analyzing engineering and statistical use data to assist in making business decisions regarding upgrading hardware, software, and communications technology to meet changing Internet/Intranet use requirements.

The system is also used to monitor for improper use.

Authorized managers may use the records in the system to investigate improper use or other improper activity by an employee, contractor or other individual relating to DOT computer systems use or access; to initiate disciplinary or other such action; and/or where the record(s) may appear to indicate a violation or potential violation of law, to refer such record(s) to the appropriate investigative organization within the agency or the Department of Transportation, or to other law enforcement agencies for investigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

—To provide information to any person(s) authorized to assist in an approved investigation of improper access or usage of DOT computer systems.

—To an actual or potential party or his or her authorized representative for the purpose of negotiation or discussion of such matters as settlement of the case or matter, or informal discovery proceedings.

—To contractors, grantees, experts, consultants, detailees, and other non-DOT employees performing or working on a contract, service, grant cooperative agreement, or other assignment from the Federal government, when necessary to accomplish an agency function related to this system of records.

—To other government agencies where required by law.

—See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is collected at each monitoring location and the data may be merged into computers within DOT. Data may be stored on an internal hard disk and periodically backed up onto magnetic tape. The data on the systems are protected by passwords. Software may be maintained on the firewall server. The length of time of storage may be governed by available disk space on the server. When it is necessary to print a hard copy, copies will be stored in a locked file cabinet.

RETRIEVABILITY:

Records may be retrieved by user name, user ID, e-mail address, or other identifying search term employed, depending on the record category. The Department does not usually connect IP addresses with a person. However, in some instances, for official government business purposes, the Department may connect the IP address with an individual, and records may be retrieved by IP address.

SAFEGUARDS:

To safeguard against the risk of unauthorized disclosure, the DOT maintains the information at secured facilities in limited access areas of the DOT data processing facilities. The systems are also software-protected by a

set of multiple passwords. There is backup capability to address issues of availability and continuity of operations. Previous week's backup tapes may be sent to an off-site storage location in some cases.

DOT limits access to monitoring software of the computer(s) to authorized personnel only. In addition, DOT limits who can use the computer(s), and limits dissemination of any passwords used to operate the computer(s). DOT maintains any hard copies of sensitive information in secure file cabinets.

RETENTION AND DISPOSAL:

The information is retained at DOT Headquarters by the system administrators and Regional Administrators. When there is no longer disk space available on the monitors' hard disks, the files are released to the operating system for re-write. This means the files are ''marked'' internally as eligible for the computer operating system to overwrite with subsequent data. DOT will comply with requirements of the National Archives and Records Administration (NARA). NARA regulations state that electronic files created to monitor system usage are authorized for erasure or deletion when the agency determines that they are no longer needed for administrative, legal, audit, or other operational purposes. Generally, these (and any associated hard copy) files will be authorized for deletion after 30 days unless needed for official purposes. Not all locations, HQ or regions, will be collecting information at all times.

SYSTEM MANAGER(S) AND ADDRESS:

a. Department of Transportation, Office of the Secretary, Office of the Chief Information Officer, S–80, 400 7th Street, SW., Washington, DC 20590.

b. Department of Transportation, Federal Aviation Administration, Assistant Administrator for Information Services and Chief Information Officer, AIO–1, FAA Headquarters, FOB–10A, 800 Independence Avenue, SW., Washington, DC 20591.

c. Department of Transportation, United States Coast Guard Headquarters, Commandant, G–C, 2100 2nd Street, SW., Washington, DC 20593.

d. Department of Transportation, Research and Special Programs Administration, Office of the Administrator, DRP–1, 400 7th Street, SW., Washington, DC 20590.

e. Department of Transportation, Federal Highway Safety Administration, Office of the Federal Highway Administrator, HOA–1, 400 7th Street, SW., Washington, DC 20590.

f. Department of Transportation, Federal Motor Carrier Safety Administration, Office of the Administrator, MC–A, 400 7th Street, SW., Washington, DC 20590.

g. Department of Transportation, National Highway Safety Administration, Office of the Administrator, NOA–01, 400 7th Street, SW., Washington, DC 20590.

h. Department of Transportation, Federal Transit Administration, Office of the Administrator, TOA–1, 400 7th Street, SW., Washington, DC 20590.

i. Department of Transportation, Maritime Administration, Office of Maritime Administrator, MAR–100, 400 7th Street, SW., Washington, DC 20590.

j. Department of Transportation, Federal Railroad Administration, The Administrator, ROA–1, 400 7th Street, SW., Washington, DC 20590.

k. Department of Transportation, Bureau of Transportation Statistics, Office of the Director, K–1, 400 7th Street, SW., Washington, DC 20590.

l. Department of Transportation, St. Lawrence Seaway Development Corporation, The Administrator, 400 7th Street, SW., Washington, DC 20590.

m. Department of Transportation, Transportation Administrative Service Center, Director, SVC–1, 400 7th Street, SW., Washington, DC 20590.

n. Department of Transportation, Transportation Security Administration (TSA), Under Secretary, TSA–1, 400 7th Street, SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

To determine whether the system may contain records relating to you, write to the System Manager.

RECORD ACCESS PROCEDURES:

Same as ''Notification Procedure.'' Provide full name, assigned computer location, and a description of information that you seek, including the time frame during which the records(s) may have been generated. Individuals requesting access must comply with the Department of Transportation's Privacy Act regulations on verification of identity (49 C.F.R. 10.37).

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and ''Record Access Procedure.''

RECORD SOURCE CATEGORIES:

Information is collected from computers located at each of the Internet/Intranet Access locations. A software program installed on each of the machines retrieves the information from a hub or connection to the Internet/Intranet. Regional offices may be collecting information from time-to-time. Personal computers at data collection points are used to capture data in a passive mode. Most records are generated internally, i.e., computer activity logs; individuals covered by the system; and management officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: April 24, 2002.

Yvonne L. Coates,

Privacy Act Coordinator.

[FR Doc. 02–10943 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reasons for Delay''

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

PM—Party to application with modification request

Issued in Washington, DC, on April 29, 2002.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
11862–N	The BOC Group, Murray Hill, NJ	4	5/31/2002
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	5/31/2002
12381–N	Ideal Chemical & Supply Co., Memphis, TN	4	6/28/2002
12412–N	Great Western Chemical Company, Portland, OR	4	6/28/2002
12440–N	Luxfer, Inc., Riverside, CA	4	5/31/2002
12571–N	Air Products & Chemicals, Inc., Allentown, PA	4	6/28/2002
12630–N	Chemetall GmbH Gesellschaft, Langelsheim, DE	4	6/28/2002
12634–N	Normal International, Los Angeles, CA	4	5/31/2002
12648–N	Stress Engineering Services, Inc., Houston, TX	4	5/31/2002
12661–N	United Parcel Service (UPS), Atlanta, GA	4	5/31/2002
12676–N	Hawks Logistics, Edmond, OK	4	6/28/2002
12690–N	Air Liquide America Corporation, Houston, TX	4	6/28/2002
12701–N	Fuel Cell Components & Integrators, Inc., Hauppauge, NY	4	6/28/2002
12706–N	Raufoss Composites AS, Raufoss, NO	4	5/31/2002
12716–N	Air Liquide America Corporation, Houston, TX	4	6/28/2002
12718–N	Weldship Corporation, Bethlehem, PA	4	6/28/2002
12751–N	Defense Technology Corporation, Casper, WY	4	5/31/2002
12753–N	Praxair, Inc., Danbury, CT	4	5/31/2002
12800–N	Department of Energy (DOE), Washington, DC	4	5/31/2002
12820–N	Trinity Manufacturing, Hamlet, NC	4	5/31/2002
12840–N	GreenField Compression, Inc., Richardson, TX	4	6/28/2002
12843–N	United States Enrichment Corporation, Bethesda, MD	4	6/28/2002
12845–N	Qantas Airways Limited, Los Angeles, CA	4	6/28/2002
12859–N	Atlantic Research Corporation, Gainesville, VA	4	6/28/2002
12867–N	G.L.I. Gitergaz, 964 Civray, FR	4	6/28/2002
12872–N	Southern California Edison, San Clemente, CA	4	6/28/2002
12924–N	Infineum USA LP, Linden, NJ	4	6/28/2002

MODIFICATION TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
4884–M	Matheson Tri-Gas, East Rutherford, NJ	4	05/31/2002
6805–M	Air Liquide America Corporation, Houston, TX	4	05/31/2002
7007–M	Allied Universal Corp., Miami, FL	4	05/31/2002
7060–M	Federal Express, Memphis, TN	4	06/28/2002
7277–M	Structural Composites Industries, Pomona, CA	4	06/28/2002
8162–M	Structural Composites Industries, Pomona, CA	4	05/31/2002
8308–M	Tradewind Enterprises, Inc., Hillsboro, OR	4	06/28/2002
8308–M	American Courier Express Corporation, Miramar, FL	4	06/28/2002
8554–M	Orica USA Inc., Englewood, CO	4	06/28/2002
8718–M	Structural Composites Industries, Pomona, CA	4	06/28/2002
9884–M	Puritan Bennett Corp (Div. of Tyco Healthcare), Indianapolis, IN	4	05/31/2002
10019–M	Structural Composites Industries, Pomona, CA	4	06/28/2002
10440–M	MASS Systems (A Unit of Ameron Global, Inc.), Baldwin Park, CA	4	06/28/2002
10442–M	Kennedy Space Center, Kennedy Space Center, FL	4	06/28/2002
10832–M	Autoliv ASP, Inc., Ogden, UT	1	05/31/2002
11327–M	Phoenix Services, Inc., Pasadena, MD	1	05/31/2002
11379–M	TRW Automotive Occupant Safety Systems, Washington, MI	4	05/31/2002
11380–M	Baker Atlas (Houston Technology Center), Houston, TX	4	06/28/2002
11537–M	JCI Jones Chemicals, Inc., Milford, VA	4	05/31/2002
11769–M	Great Western Chemical Company, Portland, OR	4	06/28/2002
11769–M	Hydrite Chemical Company, Brookfield, WI	4	05/31/2002
11791–M	The Coleman Company, Inc., Wichita, KS	4	06/28/2002
11850–M	Air Transport Association, Washington, DC	4	05/31/2002
11911–M	Transfer Flow, Inc., Chico, CA	4	05/31/2002
12065–M	Petrolab Company, Latham, NY	4	05/31/2002
12196–M	HR Textron, Pacoima, CA	4	06/28/2002
12449–M	Chlorine Service Company, Inc., Kingwood, TX	4	05/31/2002
12599–M	Voltaix, Inc., North Branch, NJ	4	05/31/2002

[FR Doc. 02–11278 Filed 5–6–02; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TREASURY

Information Quality Law Guidelines

AGENCY: Department of Treasury.

ACTION: Notice.

SUMMARY: The Department of Treasury is publishing this notice of availability of the Information Quality Law Guidelines on the agency's website at *www.treas.gov/cio/informationquality.html* to provide an opportunity for the public to comment by May 31, 2002.

EFFECTIVE DATE: April 30, 2002.

FOR FURTHER INFORMATION CONTACT: Patty Haverstick, Office of the Chief Information Officer, Department of Treasury, Washington, DC 20220. Telephone (202) 622–1525 or by email to *prasubmission@do.treas.gov*.

SUPPLMENTARY INFORMATION: On January 3, 2002, OMB published Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information disseminated by Federal Agencies. These guidelines calls upon each agency to develop a draft report not later than May 1, 2002. Treasury Bureaus and Departmental Offices should use these guidelines to develop processes for disseminating quality information. The guidelines apply to information disseminated to the public in any medium including textual, graphic, narrative, numerical, or audiovisual forms. This means information that agencies post to the Internet, as well as Bureau and Departmental Offices sponsored distribution of information. They do not apply to opinions or Hyperlinks to information that others disseminate.

Dated: May 1, 2002.

W. Earl Wright, Jr.,

Chief, Management and Administrative Programs Office.

[FR Doc. 02–11268 Filed 5–6–02; 8:45 am]

BILLING CODE 4811–20–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Columbia Mutual Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 25 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001, at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6696.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 66 FR 35033, July 2, 2001.

With respect to any bonds currently in force with above listed Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (FP), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782.

Dated: April 24, 2002.

Wand J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 02–11222 Filed 5–6–02; 8:45 am]

BILLING CODE 4810–55–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–4P

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–4P, Withholding Certificate for Pension or Annuity Payments.

DATES: Written comments should be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, or through the internet (*Larnice.Mack@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Withholding Certificate for Pension or Annuity Payments.

OMB Number: 1545–0415.

Form Number: Form W–4P.

Abstract: Form W–4P is used by the recipient of pension or annuity payments to designate the number of withholding allowances he or she is claiming, an additional amount to be withheld, so that the payer can withhold the proper amount.

Current Actions: There are no changes being made to the form at this time. Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Respondents: 12,000,000.

Estimated Time Per Respondent: 2 hrs., 4 min.

Estimated Total Annual Burden Hours: 24,720,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 30, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–11312 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 730

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 730, Tax on Wagering.

DATES: Written comments should be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, or through the Internet (*Larnice.Mack@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax on Wagering.

OMB Number: 1545–0235.

Form Number: Form 730.

Abstract: Form 730 is used to identify taxable wagers under Internal Revenue Code section 4401 and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Current Actions: Form 730 has been reformatted to be scannable. New entry boxes have been added for a daytime telephone number, and to indicate a final return. Lines 4a and 4b each have a new entry to allow for the separate computation of tax amounts for wagers authorized under state law (line 4a) and for all other wagers (line 4b).

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Respondents: 51,082.

Estimated Time Per Response: 7 hrs., 25 min.

Estimated Total Annual Burden Hours: 378,518.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 30, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–11313 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–R

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

DATES: Written comments should be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, or through the Internet (*Larnice.Mack@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

OMB Number: 1545–0119. Form Number: 1099–R.

Abstract: Form 1099–R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by the IRS to verify that income has been properly reported by the recipient.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Responses: 56,518,218.

Estimated Time Per Response: 18 min.

Estimated Total Annual Burden Hours: 16,955,465.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 30, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–11314 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099-A, Acquisition or Abandonment of Secured Property.

DATES: Written comments should be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, or through the Internet (*Larnice.Mack@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Acquisition or Abandonment of Secured Property.

OMB Number: 1545–0877.

Form Number: 1099–A.

Abstract: Form 1099–A is used by persons who lend money in connection with a trade or business, and who acquire an interest in the property that is security for the loan or who have reason to know that the property has been abandoned, to report the acquisition or abandonment.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 386,356.

Estimated Time Per Response: 10 min. 4 min.

Estimated Total Annual Burden Hours: 61,817.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 30, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–11315 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4684

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4684, Casualties and Thefts.

DATES: Written comments should be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet(*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Casualties and Thefts.

OMB Number: 1545–0177.

Form Number: 4684.

Abstract: Form 4684 is used by taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 170,000.

Estimated Time Per Respondent: 4 hr., 4 min.

Estimated Total Annual Burden Hours: 691,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 30, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–11316 Filed 5–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Brand Tracking Survey.

DATES: Written comments should be received on or before July 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Brand Tracking Survey.

Abstract: The survey will focus on Treasury Direct marketing issues.

Current Actions: None.

Type of Review: New.

Affected Public: Individuals.

Estimated Number of Respondents: 2,600.

Estimated Total Annual Burden Hours: 650.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 1, 2002.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 02–11252 Filed 5–6–02; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

United States Mint

Request for CCCAC Membership Applications

SUMMARY: The United States Mint is accepting applications for membership to the Citizens Commemorative Coin Advisory Committee (CCCAC). The CCCAC was established in 1993 under Public Law 102–390 to:

- Designate annually the events, persons, or places the committee recommends be commemorated by the issuance of commemorative coins,
- Make recommendations with respect to the mintage level for any commemorative coin recommended,
- Submit a report to the Congress containing a description of the recommendations and the Committee's reasons for such recommendation, and
- Review and comment on proposed designs for commemorative coins and the 50 State Quarters® Program.

Membership consists of seven voting members appointed to 4-year terms by the Secretary of the Treasury:

- Three members shall be appointed from among individuals specially qualified to serve by reason of their education, training or experience in art, art history, museum or numismatic collection curation, or numismatics,
- Three members shall be appointed from among individuals who will represent the interest of the general public, and
- One member shall be appointed from officers or employees of the United States Mint to represent the interests of the United States Mint.

The Committee is subject to the direction of the Secretary of the

Treasury. The United States Mint is responsible for providing the necessary support services for the Committee. Committee members are not paid for their time or services, but, consistent with Federal Travel Regulations, members are reimbursed for their travel and lodging expenses to attend approximately two meetings each year. Members may be subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2653).

The United States Mint will review all submissions and will forward its recommendations to the Secretary of the Treasury for appointment consideration. Candidates who believe that they are specially qualified to serve by reason of their education, training, or experience in the fields of art, art history, museum or numismatic collection curation, or numismatics should include specific skills, abilities, talents, and credentials to support their applications. All candidates should submit any relevant information that demonstrates their qualifications to represent the interests of the public, including demonstrated experience with history, education, youth or American heritage and culture. The United States Mint is also interested in candidates who have demonstrated leadership skills, who have received recognition by their peers in their field of interest, who have a record of participation in public service or activities, and who are willing to commit the time and effort to participate in the Committee meetings and related activities.

Application Deadline: May 16, 2002.

Receipt of Applications: Any member of the public wishing to be considered for participation on the committee should submit a resume, or letter describing qualifications for membership, by e-mail to *cccacmembership@usmint.treas.gov* or by mail to the United States Mint, 801 9th Street, NW, Washington, DC 20001, Attn: CCCAC Membership. Submissions must be postmarked no later than May 16, 2002.

Dated: May 1, 2002.

Henrietta Holsman Fore,

Director, United States Mint.

[FR Doc. 02–11213 Filed 5–6–02; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0075.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0075'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants use VA Form 21–4138 to provide self-certified statements that the information provided to VA is true and correct in support of various types of claims processed by the agency.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at pages 8065 and 8066.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 752,000.

Dated: April 23, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–11232 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0216]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0216.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0216'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary, VA Form 21–601.

OMB Control Number: 2900–0216.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to file a claim for accrued benefits available at the time of the veteran's death. The information is used to determine the appropriate claimant eligibility for accrued benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 22, 2002, at pages 13413–13414.

Affected Public: Individuals or households, and Business or other for profit.

Estimated Annual Burden: 1,875 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 3,750.

Dated: April 26, 2002.

By direction of the Secretary:

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 02–11233 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0270.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0270'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270.

Type of Review: Extension of a currently approved collection.

Abstract: The form is an integral part of VA's supplemental servicing program for helping veteran-borrowers who are seriously delinquent on guaranteed or insured VA home loans. In VA's supplemental servicing effort, financial counseling is performed in appropriate cases to afford veteran-borrowers the maximum assistance possible to retain their homes during periods of temporary financial difficulty. The information collected is used to make recommendations to the borrower in an effort to help the borrower cure the default status of the loan.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at pages 8067 and 8068.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 5,000.

Dated: April 23, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–11234 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0463]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0463.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0463'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances, VA Form 21–8951 and VA Form 21–8951–2.

OMB Control Number: 2900–0463.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8951 and 21–8951–2 are used by reservist/guardsman to waive disability benefits paid by VA in order to receive pay for inactive duty training.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at page 8068.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 21,000.

Dated: April 23, 2002.

By direction of the Secretary:

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–11235 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0503]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0503.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0503'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance—Change of Address Statement, VA Form 29–0563.

OMB Control Number: 2900–0503.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to inquire about a veteran's continued ownership of the property issued under Veterans Mortgage Life Insurance when an address change for the veteran is received. The information collected is used in determining whether continued Veterans Mortgage Life Insurance coverage is applicable since the law granting this insurance provides that coverage terminates if the veteran no longer owns the property.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at page 8066.

Affected Public: Individuals or households.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 240.

Dated: April 23, 2002.

By direction of the Secretary.

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–11236 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0027]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0027.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0027'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Accrued Benefits by Veteran's Surviving Spouse, Child, or Dependent Parent, (Prior Law Pension Due at the Veteran's Death Which Was Withheld From the Veteran's Payments During Hospitalization, Institutional or Domiciliary Care), VA Form 21–551.

OMB Control Number: 2900–0027.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–551 is used by a surviving spouse, child, children, or dependent parent in applying for lump sum payment of pension authorized but withheld from the veteran during hospital treatment, institutional, or domiciliary care. The information is used to determine a claimant's entitlement to such benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 21, 2002, at page 8067.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 100.

Dated: April 23, 2002.

By direction of the Secretary:

Genie McCully,

Acting Director, Information Management Service.

[FR Doc. 02–11237 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on homeless Veterans will hold it's first meeting from Monday, June 3, 2002 through Wednesday, June 5, 2002, at the Ronald Reagan Building, in Rooms Meridian D & E, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting will convene daily at 8:30 a.m. and conclude Monday and Tuesday at 4:30 p.m. and Wednesday at 11:45 a.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans. The Committee shall assemble and review information relating to the needs of homeless veterans and provide advice on the most appropriate means of providing assistance to homeless veterans. The Committee will make recommendations to the Secretary regarding such activities.

On June 3, the Committee will convene its opening session with discussions on the mission and objectives of the Committee, an ethics briefing, and presentations on programs offered by the Veterans Health Administration. On June 4, the Committee will receive briefings from the Veterans Benefit Administration, the Veterans Health Administration, the National Cemetery Administration as well as information regarding other Federal programs that assist homeless veterans. On June 5, the Committee will conclude with a review of previous presentations and a discussion of action items for the Committee.

Those wishing to attend the meeting should contact Mr. Pete Dougherty, Department of Veterans Affairs, at (202) 273–5764. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issues affecting homeless veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Homeless Veterans, Homeless Veterans Programs Office (075D), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 29, 2002.

By direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–11238 Filed 5–6–02; 8:45 am]

BILLING CODE 8320–01–M

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Air programs; approval and promulgation; State plans for designated facilities and pollutants:

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Air quality implementation plans; approval and promulgation; various States:

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ENVIRONMENTAL PROTECTION AGENCY

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 2248/P.L. 107–168

To extend the authority of the Export-Import Bank until May 31, 2002. (May 1, 2002; 116 Stat. 131)

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