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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–080–3]

Oriental Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Oriental fruit fly regulations by removing portions of San Bernardino and San Diego Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. The quarantine was necessary to prevent the spread of Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from these portions of San Bernardino and San Diego Counties, CA, and that the quarantine and restrictions on the interstate movement of regulated articles from those areas are no longer necessary.

EFFECTIVE DATE: The interim rule became effective on May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–8039.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruits, nuts, and vegetables. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks that can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective and published in the **Federal Register** on May 15, 2002 (67 FR 34589–34590, Docket No. 01–080–2), we amended the regulations by removing portions of San Bernardino and San Diego Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. That action relieved unnecessary restrictions on the interstate movement of regulated articles from those areas.

Comments on the interim rule were required to be received on or before July 15, 2002. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 67 FR 34589–34590 on May 15, 2002.

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 10th day of September 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–23676 Filed 9–17–02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–115–2]

Imported Fire Ant; Approved Treatments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the imported fire ant regulations to add the insecticide fipronil (Chipco®) to the list of chemicals authorized for the treatment of regulated articles and to provide instructions for its use in soil or potting media and on grass sod. This action makes another authorized treatment available to persons wishing to move containerized plants and commercial grass sod interstate from quarantined areas. We are also updating the regulations by making the rates of application for chlorpyrifos (Dursban®), a currently authorized insecticide, consistent with current product labeling.

EFFECTIVE DATE: September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4838.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, is an aggressive, stinging insect that, in large numbers, can seriously injure and even kill livestock, pets, and humans. The imported fire ant feeds on

crops and builds large, hard mounds that damage farm and field machinery.

The imported fire ant regulations (7 CFR 301.81 through 301.81–10, referred to below as the regulations) quarantine infested States or infested areas within States and restrict the interstate movement of regulated articles from those areas to prevent the artificial spread of the imported fire ant. Regulated articles include soil, plants, and sod (§ 301.81–2).

Sections 301.81–4 and 301.81–5 of the regulations provide, among other things, that regulated articles requiring treatment prior to interstate movement must be treated in accordance with the methods and procedures prescribed in the appendix to the subpart, which sets forth the treatment provisions of the ''Imported Fire Ant Program Manual.''

On April 30, 2002, we published a proposal in the **Federal Register** (67 FR 21183–21185, Docket No. 01–115–1) to amend the imported fire ant regulations by adding the insecticide fipronil (Chipco®) to the list of chemicals authorized for the treatment of soil, potting media, and grass sod. We also proposed to change the dosage rates for applying chlorpyrifos, a currently approved insecticide, to grass sod so that the rate would be consistent with current product labeling.

We solicited comments concerning our proposal for 60 days ending July 1, 2002. We received five comments by that date. They were from representatives of a pest control company and three State agriculture departments. Three comments supported our proposal, and two comments raised two issues, which are discussed below.

One commenter stated his concern that over-the-counter availability of fipronil would remove business from pest management professionals. The commenter's assumption that fipronil that is used in the imported fire ant quarantine program will be available over the counter is incorrect. The over-the-counter product is not labeled for imported fire ant quarantine use and thus cannot be used in the program. Certified applicators, who could include personnel at nurseries or golf courses or pest management professionals, must apply the product.

Two commenters were concerned that the use of fipronil would lead to contamination of ground water, streams, lakes, and other water resources due to the over application or misuse of fipronil. Fipronil must be applied according to the label that has been approved by the Environmental Protection Agency (EPA). When fipronil is used in accordance with the label requirements and applied by certified applicators, it is unlikely that any over application or misuse of fipronil will occur.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that approves the use of a new chemical pesticide that may be used as an alternative to other authorized chemicals. Immediate implementation of this rule will enable those persons wishing to sell or use fipronil to benefit from its availability for treatment of the imported fire ant during the fall shipping season, which is about to begin. Therefore, pursuant to 5 U.S.C. 553, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective less than 30 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends the appendix to the imported fire ant regulations to allow the use of the insecticide fipronil (Chipco®) against the imported fire ant. Fipronil is registered by the EPA for use against imported fire ant in potting media and commercial grass sod and has been found to be efficacious against the imported fire ant based on testing by the Gulfport Plant Methods Center in Mississippi.

Determining the cost of imported fire ant treatments is complicated because of the variety of insecticides that can be used, varying soil conditions, and the various nursery crops grown. For example, in two surveys conducted by Hall and Holloway (1994 and 1995) of 37 nursery crop growers in Texas—representing over one-half of all nursery crops produced in that State—chemical cost per treatment for imported fire ant control averaged $12.10, with treatment costs making up to 4 percent of their production cost. Almost one-half (*i.e.,* 47 percent) of those growers reported treating for imported fire ant, and most of them reported using more than one insecticide to treat for imported fire ant in their operations (range = 1 to 3; average = 1.5), making the average cost per acre for insecticides to control imported fire ants $18.15 (*i.e.,* 1.5 × $12.10).

Fipronil is the latest EPA-approved insecticide to be added to the regulations for the treatment of imported fire ant. Other approved insecticides—Pyriproxyfen (Distance®, Fenoxycarb (Award®, Hydramethylnon (AMDRO®, and Bifenthrin (Talstar®—cost approximately the same in the bulk market, between $5 per pound and $12 per pound, with each pound treating 17 colonies (*i.e.,* mounds) of imported fire ant. An insecticide's retail price depends on the price charged by its local distributor and may vary from State to State. Although the insecticides generally do not differ greatly in price, at least some consumers can be expected to benefit from the inclusion of fipronil as an alternative treatment.

Affected Entities

Businesses such as nurseries, sod growers, farm equipment dealers, and construction companies that work with regulated articles are the entities most likely to be affected by this rule. This rule results in a wider selection of treatment options for imported fire ant. The economic effect on affected entities is expected to either be positive, since a wider selection of insecticides will provide greater choice, or have no effect, if they choose not to use fipronil.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses. Based on data from the 1997 Census of Agriculture, there were 13,266 nurseries and greenhouses located in areas of the United States quarantined because of imported fire ant, of which 82 to 99 percent were small businesses, according to the U.S. Small Business Administration's criterion of annual sales of less than $750,000.

The addition of fipronil to the imported fire ant regulations provides the regulated community with a greater selection of treatment options. Thus, it is expected that the economic effect on these businesses would either be positive (a wider selection of insecticides provides greater choice) or neutral (if they choose not to use fipronil). The majority (*i.e.,* 82 to 99 percent) of firms that may potentially be affected by this proposed rule are small entities.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance

under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L.106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In part 301, Subpart—Imported Fire Ant (§§ 301.81 through 301.81–10), the appendix to the subpart is amended as follows:

a. In paragraph III.B., under the heading INSECTICIDES, by adding ''Fipronil (Chipco®'' in alphabetical order.

b. By redesignating paragraph III.C.3.d. as paragraph III.C.3.e. and adding a new paragraph III.C.3.d. to read as set forth below.

c. In newly redesignated paragraph III.C.3.e., by removing, from the heading, the words ''or tefluthrin'' and adding the words ''tefluthrin, or fipronil'' in their place, and by adding a new ''Method F—Granular Incorporation (Fipronil)'' in alphabetical order to read as set forth below.

d. In paragraph III.C.4., under the heading *Exclusion,* by adding a new entry for *Fipronil,* following the *Tefluthrin* entry, to read as set forth below.

e. In paragraph III.C.4., under the heading *Enforcement*, the sixth paragraph, second sentence, by removing the words ''or tefluthrin'' and adding the words ''tefluthrin, or fipronil'' in their place.

f. In paragraph III.C.8., by revising the entry for *Material* to read as set forth below.

APPENDIX TO SUBPART ''IMPORTED FIRE ANT''

III. Regulatory Procedures

* * * * *

C. *Approved Treatments.*

* * * * *

3. Plants Balled or in Containers

* * * * *

d. Fipronil: Granular Formulation.

Material: Granular fipronil incorporation into soil or potting media for containerized nursery stock.

Dosage: The amount of granular fipronil needed to achieve a specified dosage varies with the bulk density of the soil or potting media. Follow label directions to calculate the amount of granular fipronil needed to achieve a specified dosage.

Granular fipronil dosage (parts per million)	Certification period (months after treatment)
10 ppm	0–6 months.
12 ppm	0–12 months.
15 ppm	0–24 months.
25 ppm	Continuous.

Exposure Period: Containerized nursery stock can be certified for interstate movement from quarantined areas 2 weeks after completion of treatment.

e. * * *

Method F—Granular Incorporation (Fipronil)

Apply fipronil according to the label instructions for granular incorporation. Mix thoroughly to distribute product evenly throughout the soil or potting media. After potting, containers must be watered to the point of saturation.

Precautions: Saturation of the soil or potting media with the granular fipronil is essential. Water that drains from the treatment area, which may contain fipronil, must be disposed of in accordance with State and local laws.

4. Imported-Fire-Ant-Free Nursery—Containerized Plants Only

* * * * *

Exclusion

* * * * *

Fipronil

For plants grown on the premises: Treatment of soil or potting media with granular fipronil prior to planting is permitted as an alternative to treatment with granular formulations of bifenthrin or tefluthrin. This treatment reduces the risk of infestation of containers by alate queens flying in from adjacent or nearby infested premises. The dosage rate is variable, determined by the selected certification period, for the granular fipronil.

Apply this treatment according to the label directions.

Mixing must be adequate to blend the required dosage of granular fipronil throughout the entire soil or potting media.

* * * * *

8. Grass–Sod

Material

a. Chlorpyrifos.

Material	Amount and dosage of material	Certification period
Chlorpyrifos	8.0 lb (3.6 kg) a.i./acre	6 weeks (after exposure period has been completed).

Exposure Period: 48 hours.

Method

1. Apply a single broadcast application of chlorpyrifos with ground equipment.
2. Immediately after treatment, water the treated areas with at least ½ inch of water.

Chlorpyrifos wettable powder Dursban® 50–WP: Follow label directions for regulatory treatment for IFA.

b. Fipronil.

Material	Amount and dosage of material	Certification period
Fipronil	Dosage per application: 0.0125 lb (0.00567 kg) a.i./acre. Total amount over two applications: 0.025 lb (0.01134 kg) a.i./acre.	20 weeks (after exposure period has been completed).

Exposure Period: 30 days from the second application.

Method

1. Apply in two applications approximately 1 week apart for a total of 0.025 lb (0.01134 kg) a.i./acre.
2. Follow label directions for regulatory treatment for IFA.

* * * * *

Done in Washington, DC, this 12th day of September, 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–23685 Filed 9–17–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–42–AD; Amendment 39–12882; AD 2002–19–02]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 turboshaft engines with exhaust pipes incorporating modification TU 200A installed. This action requires visual inspections of exhaust pipes for cracks and tears, upon completion of the last flight of each day, and replacement of cracked and torn exhaust pipes before further flight. This action also requires removal from service of modification TU 200A exhaust pipes at the next shop visit or no later than a certain date. This amendment is prompted by several reports of modification TU 200A exhaust pipes cracking at several of the ejector attachment tabs. The actions specified in this AD are intended to prevent the ejector from becoming loose from the exhaust pipe, resulting in damage to the main rotor and tail rotor and loss of helicopter control.

DATES: Effective October 3, 2002.

Comments for inclusion in the Rules Docket must be received on or before November 18, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–42–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *''9-ane-adcomment@faa.gov''.* Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7132; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 turboshaft engines with modification TU 200A exhaust pipes installed. The exhaust pipe is composed of a primary exhaust pipe mounted on the engine, and an ejector pipe fixed on the primary exhaust pipe by eight attachment tabs. The DGAC advises that several reports were received of modification TU 200A exhaust pipes cracking at several of the ejector attachment tabs. This type of deterioration, if allowed to continue, can result in damage to the main rotor and tail rotor and loss of helicopter control. The DGAC issued AD T2001–301(A), dated July 3, 2001, and AD 2002–124(A), dated March 6, 2002, in order to assure the airworthiness of these Turbomeca S.A. Makila models 1A, 1A1, and 1A2 turboshaft engines in France.

Bilateral Airworthiness Agreement

This engine model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Turbomeca S.A. Makila Models 1A, 1A1, and 1A2 turboshaft engines of the same type design, this AD is being issued to prevent the ejector from becoming loose from the exhaust pipe, resulting in damage to the main rotor and tail rotor and loss of helicopter control. This AD requires visual inspections of exhaust pipes for cracks and tears, upon completion of the last flight of each day and replacement of cracked and torn exhaust pipes before further flight. This action also requires as terminating action to the repetitive inspections, removal from service of modification TU 200A exhaust pipes at the next shop visit, or no later than June 30, 2003.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact

concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–42–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–19–02 Turbomeca S.A.: Amendment 39–12882. Docket No. 2001–NE–42–AD.

Applicability

This airworthiness directive (AD) is applicable to Turbomeca S.A. Makila models 1A, 1A1, and 1A2 turboshaft engines with exhaust pipes incorporating modification TU 200A installed. These engines are installed on, but not limited to, Aerospatiale AS 332 ''Super Puma Mark I'' C, C1, L, L1, and ''Super Puma Mark II'' L2 helicopters.

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

Compliance

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

To prevent the ejector from becoming loose from the exhaust pipe, resulting in damage to the main rotor and tail rotor and loss of helicopter control, do the following:

(a) Upon completion of the last flight of each day, clean and visually inspect exhaust pipes for cracks and tears, focusing on the ejector attachment tabs that connect the ejector to the primary exhaust pipe. Information on exhaust pipe inspection for Turbomeca S.A. Makila models 1A and 1A1 may be found in Engine Maintenance Manual (EMM) Section 78–10–601, and EMM Section 78–11–00 for Makila model 1A2.

(b) On exhaust pipes also incorporating modification TU 54, use a mirror placed between the engine firewall and the exhaust pipe, and visually inspect the furthest aft attachment tab, as specified in paragraph (a) of this AD.

(c) Replace exhaust pipe at the first visual sign of any exhaust pipe crack or tear before further flight. Information on exhaust pipe replacement for Turbomeca S.A. Makila models 1A and 1A1 may be found in EMM Section 78–10–401, and EMM Section 78–11–00 for Makila model 1A2.

(d) After the replacement exhaust pipe is installed, before further flight, perform engine vibration level checks to ensure all vibration levels are within manufacturer's limits. Information on vibration level checks for Turbomeca S.A. Makila models 1A and 1A1 may be found in EMM Section 71–00–601, and EMM Section 71–00–00 for Makila model 1A2.

Terminating Action

(e) Remove from service exhaust pipes incorporating modification TU 200A at the next shop visit, or no later than June 30, 2003. Removal from service constitutes terminating action to the repetitive visual inspections required by this AD. Information on removal from service may be found in Turbomeca S.A. Alert Service Bulletin No. A298 72 0148, Update No. 1, dated February 18, 2002.

Alternative Methods of Compliance

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

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

Note 3: The subject of this AD is addressed in the Direction Generale de L'Aviation Civile airworthiness directive AD T2001–301(A), dated July 3, 2001, and AD 2002–124(A), dated March 6, 2002.

Effective Date

(g) This amendment becomes effective on October 3, 2002.

Issued in Burlington, Massachusetts, on September 9, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–23652 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 217, 241 and 298

[Docket No. OST–00–7735]

RIN 2139–AA07

Amendment to the Definitions of Revenue and Nonrevenue Passengers

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Office of the Secretary and the Bureau of Transportation Statistics (BTS) are revising the Department's definitions of *revenue passenger* and *nonrevenue passenger* to specify that a passenger traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint is considered to be a revenue passenger. The revised definitions will also be added to other regulatory provisions. Based on this final rule, the definitions will be in harmony with the definitions of *revenue* and *nonrevenue passenger* adopted by the International Civil Aviation Organization (ICAO). Harmonizing DOT's and ICAO's

definitions will relieve air carriers from being required to keep two sets of traffic enplanement statistics—one for reporting to ICAO and one for reporting to DOT. This action is taken at DOT's initiative.

DATES: This rule is effective October 18, 2002.

FOR FURTHER INFORMATION CONTACT: Clay Moritz or Bernard Stankus, Office of Airline Information, K–14, Bureau of Transportation Statistics, Department of Transportation, Room 4125, 400 Seventh Street, SW., Washington, DC, 20590–0001, (202) 366–4385 or (202) 366–4387, respectively. You can also contact either party by e-mail at *clay.moritz@bts.gov* or *bernard.stankus@bts.gov* or by fax at (202) 366–3383.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Services at (202) 512–1661. Internet users may reach the Office of the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.* You can also view and download this document by going to the webpage of the Department's Docket Management System (*http://dms.dot.gov/*). On that page, click on ''search.'' On the next page, type the last four digits of the docket number shown in the heading of this document. Then click on ''search.''

Background

On August 22, 2000, the Department issued a Notice of Proposed Rulemaking (NPRM) (65 FR 50946) to revise the definitions of *revenue* and *nonrevenue passenger* in 14 CFR 217.1, 241.03, and 298.2. The Department proposed to classify as revenue passengers those passengers, traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint. Previously, these passengers were classified as nonrevenue passengers.

The proposals were intended to harmonize the Department's definitions of *revenue* and *nonrevenue passengers* with the definitions adopted by the International Civil Aviation Organization (ICAO). The proposed change in the Department's definitions would negate the need for carriers to maintain two sets of statistics to record passenger enplanements. This rule is being issued jointly by the Office of the Secretary and BTS.

Public Comments

Comments were received from American Airlines, United Air Lines, and Southwest Airlines. The three carriers support the Department's action to harmonize its definitions of *revenue* and *nonrevenue passengers* with ICAO's definitions. Southwest believes that common reporting guidelines will benefit airlines by allowing for greater reporting accuracy and efficiency.

However, the carriers did express concerns that the revision in the definitions could have the unintended consequence of subjecting more passengers to Passenger Facility Charges (PFCs). American Airlines points out that although a passenger may now be defined as a *revenue passenger* that passenger has paid no additional amounts. United Air Lines requests that the Department clarify that the change in definitions does not impact or expand the collection of PFCs by either making a statement to this effect or revising 14 CFR 158.9(a)(3).

DOT agrees with the air carriers. The sole purpose of the revisions in the definitions of *revenue* and *nonrevenue passengers* is to harmonize the classifications of passenger enplanements between the Department and ICAO. Thus, the changes adopted in this final rule are for air carrier traffic and financial reporting purposes and are not meant to expand the universe of passengers required to pay PFCs.

Revenue Passengers

The following types of passengers are examples of revenue passengers: (1) Passengers traveling on publicly available tickets; (2) passengers traveling on frequent flyer awards; (3) passengers traveling on barter tickets; (4) infants traveling on confirmed-space tickets; (5) passengers traveling on vouchers as compensation for denied boarding or passengers traveling free in response to consumer complaints or claims; and (6) passengers traveling on preferential fares (Government, seamen, military, youth, student, *etc.*). This list is not exhaustive and is provided for illustrative purposes only.

Nonrevenue Passengers

The following types of passengers are examples of nonrevenue passengers when traveling free or pursuant to token charges: (1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft; (2) directors, officers, employees, and others authorized by the air carrier or another air carrier traveling pursuant to a pass interchange agreement; (3) travel agents being transported for the purpose of familiarizing themselves with the carrier's services; (4) witnesses and attorneys attending any legal investigation in which such carrier is involved; (5) persons injured in aircraft accidents, and physicians, nurses, and others attending such persons; (6) any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe; (7) any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty; (8) guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft; (9) security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference; (10) safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty; (11) postal employees on duty in charge of the mails or traveling to or from such duty; (12) technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations; (13) persons engaged in promoting air transportation; (14) air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and (15) other authorized persons, when such transportation is undertaken for promotional purpose. This list is not exhaustive and is provided for illustrative purposes only.

Reporting Burden

DOT believes that this final rule is not a revision to an information collection for the purposes of the Paperwork Reduction Act. It is not adding or removing any data items. Rather, it is changing definitions to simplify carrier reporting and preclude the need for affected air carriers to maintain two separate systems for identifying revenue and nonrevenue passengers for DOT and ICAO reporting. Under Article 67 of the 1944 Chicago Convention, the United States, as a party to the treaty, is obligated to supply certain individual U.S. air carrier data to ICAO. By harmonizing DOT's definitions of revenue and nonrevenue passengers with ICAO's definitions, DOT will be able to supply ICAO with U.S. air

carrier data from DOT's own data base. U.S. carriers will not be required to submit special traffic reports in order to meet this U.S. treaty obligation. Some carriers may, however, have a one-time reprogramming task to classify, as revenue passengers, those passengers traveling on vouchers or tickets received in response to consumer complaints or as compensation for denied boardings.

In the NPRM, DOT specifically sought comments from any carrier that believed it would experience a reporting burden as a result of the change in the definitions of revenue and nonrevenue passengers. DOT did not receive any comments on this issue.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

DOT does not consider this final rule to be a significant regulatory action under section 3(f) of Executive Order 12866. It was not subject to review by the Office of Management and Budget.

DOT does not consider the final rule to be significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979). The purpose of the rule is to revise the Department's definitions of revenue passenger and nonrevenue passenger. This action will negate the need for air carriers to keep two sets of traffic records. Presently, air carriers maintain one set of records for tracking revenue passengers for DOT reporting purposes, and a set of records for ICAO reporting. Therefore, this action will result in a positive economic impact on reporting air carriers.

Federalism

DOT analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and the rule will not have a substantial direct effect on the states, on the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government. The rule does not impose substantial direct compliance costs on State and local governments or preempt state law. Thus, the BTS has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

We certify this final rule will not have a significant economic impact on a substantial number of small entities, as the total cost of the rulemaking is insignificant, although there should be a minor cost savings in harmonizing the definition of revenue passenger. There are about 100 small air carriers that report traffic data to DOT. However, the rule's most significant change is the treatment of passengers traveling on a ticket or voucher received as compensation for denied boarding. The denied boarding regulations are not applicable to small air carriers. Therefore, the final rule does not have a significant impact on small air carriers.

Unfunded Mandates

Under section 201 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531), DOT assessed the effects of this final rule on State, local and tribal governments, in the aggregate, and the private sector. DOT determined that this regulatory action requires no written statement under section 202 of the UMRA (2 U.S.C. 1532) because it will not result in the expenditure of $100,000,000 in any one year by State, local and tribal governments, in the aggregate, or the private sector.

National Environmental Protection Act

The DOT has analyzed the final rule for the purpose of the National Environmental Protection Act, and has determined that the changes will not have any impact on the quality of the human environment.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA07 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 217

Foreign air carriers, Traffic reports.

14 CFR Part 241

Air carriers, Reporting and recordkeeping requirements, Uniform System of accounts.

14 CFR Part 298

Air taxis, Commuter and small certificated air carriers, Reporting and recordkeeping requirements.

Accordingly, the Office of Secretary amends 14 CFR parts 217, 241 and 298 as follows:

PART 217—[AMENDED]

1. The authority citation for part 217 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Definitions for *revenue passenger* and *nonrevenue passenger* are added in alphabetical order to § 217.1 to read as follows:

§ 217.1 Definitions.

* * * * *

Nonrevenue passenger means: a person traveling free or under token charges, except those expressly named in the definition of *revenue passenger;* a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. (This definition is for 14 CFR Part 217 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.)

The definition includes, but is not limited to the following examples of passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting air transportation;

(14) Air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and

(15) Other authorized persons, when such transportation is undertaken for promotional purpose.

Revenue passenger means: a passenger for whose transportation an air carrier receives commercial remuneration. (This definition is for 14 CFR Part 217 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) This includes, but is not limited to, the following examples:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth, student, etc.);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

* * * * *

PART 241—[AMENDED]

3. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

4. The definitions in part 241 Section 03 for *passenger, nonrevenue* and *passenger, revenue* are revised to read as follows:

Section 03—Definitions for the Purposes of This System of Accounts and Reports

* * * * *

Passenger, nonrevenue means: a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. (This definition is for 14 CFR part 241 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.)

The definition includes, but is not limited to following examples of passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting air transportation;

(14) Air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and

(15) Other authorized persons, when such transportation is undertaken for promotional purpose.

Passenger, revenue: means a passenger for whose transportation an air carrier receives commercial remuneration. (This definition is for 14 CFR part 241 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) This includes, but is not limited to, the following examples:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth, student, etc.);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

* * * * *

5. Part 241 Sec. 19–7 is amended by removing the term *revenue passenger* from Section X, ''GLOSSARY OF TERMS'' in Appendix A to Sec. 19–7—Instructions to Air Carriers for Collecting and Reporting Passenger Origin-Destination Survey Statistics.

PART 298—[AMENDED]

6. The authority citation for part 298 is revised to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 411, 417.

7. The paragraph designations are removed, the definition of *ton* is transferred to correct alphabetical order, and definitions for *Nonrevenue passenger* and *Revenue passenger* are added in alphabetical order to § 298.2 to read as follows:

§ 298.2 Definitions.

* * * * *

Nonrevenue passenger means a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount

available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat. (This definition is for 14 CFR part 298 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) The definition includes, but is not limited to, the following examples of passengers when traveling free or pursuant to token charges:

(1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;

(2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which such carrier is involved;

(5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;

(6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;

(7) Any law enforcement official, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;

(8) Guests of an air carrier on an inaugural flight or delivery flights of newly-acquired or renovated aircraft;

(9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;

(10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;

(11) Postal employees on duty in charge of the mails or traveling to or from such duty;

(12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;

(13) Persons engaged in promoting air transportation;

(14) Air marshals and other Transportation Security officials acting in their official capacities and while traveling to and from their official duties; and

(15) Other authorized persons, when such transportation is undertaken for promotional purpose.

* * * * *

Revenue passenger means a passenger for whose transportation an air carrier receives commercial remuneration. (This definition is for 14 CFR part 298 traffic reporting purposes and may differ from the definitions used in other parts by the Federal Aviation Administration and the Transportation Security Administration for the collection of Passenger Facility Charges and Security Fees.) This includes, but is not limited to, the following examples:

(1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);

(2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;

(3) Passengers traveling at corporate discounts;

(4) Passengers traveling on preferential fares (Government, seamen, military, youth, student, etc.);

(5) Passengers traveling on barter tickets; and

(6) Infants traveling on confirmed-space tickets.

* * * * *

Issued in Washington, DC on September 10, 2002.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs, Office of the Secretary.

Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 02–23614 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 020830206–2206–01]

RIN 0694–AC51

Missile Technology Production Equipment and Facilities

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: To clarify Department of Commerce controls, Commerce is revising the language contained in Export Control Classification Numbers (ECCNs) 1B115, 1B117, 9B115, and 9B116 to reflect that all missile technology (MT) production equipment and facilities are controlled on the Commerce Control List (CCL) of the Export Administration Regulations (EAR).

DATES: This rule is effective: September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Steve Clagett, Director, Nuclear and Missile Technology Controls Divisions, Bureau Industry and Security, Telephone: (202) 482–1641.

SUPPLEMENTARY INFORMATION

Background

Since 1998, ECCNs 1B115, 1B117, 9B115 and 9B116, have referred exporters to the International Traffic in Arms Regulations (ITAR), administered by the Department of State, Office of Defense Trade Controls, for licensing requirements for equipment specially designed for production of MT items subject to the ITAR. This rule clarifies that all production equipment for MT items, described in ECCNs 1B115, 1B117, 9B115 and 9B116, is subject to the EAR and controlled on the CCL. The Departments of Commerce, State and Defense are currently reviewing the control jurisdiction for specific items of equipment specially designed for the production of certain MT items that are subject to the ITAR. This review may result in future revisions to the EAR and the ITAR with respect to specific items of specially designed MT production equipment.

Specifically, the following changes are made to the following ECCNs:

1B115: Notes 1 and 2 are removed from the Related Controls paragraph of the List of Items Controlled section.

1B117: Notes 2 and 4 are removed from the Related Controls paragraph of the List of Items Controlled section.

9B115 and 9B116: The heading is revised and License Requirements, License Exceptions, and List of Items Controlled sections are added.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001), as extended by the Notice of August 14, 2002 (67 FR 53721, August 16, 2002), continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of 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 Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as this term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Matthew Blaskovich, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044, or *mblaskov@bis.doc.gov.*

List of Subjects in 15 CFR Part 774

Exports, Foreign trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 774—[AMENDED]

1. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, Microorganisms, and Toxins, Export Control Classification Number (ECCN) 1B115 is amended by revising the List of Items Controlled section, and ECCN 1B117 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

1B115 ''Production equipment'' for the production, handling or acceptance testing of liquid propellants or propellant constituents controlled by 1C011, 1C111 or on the U.S. Munitions List, and specially designed components therefor.

* * * * *

List of Items Controlled

Unit: Equipment in number; components in $ value

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

1B117 ''Production equipment'', as follows (see List of Items Controlled), for the production, handling or acceptance testing of solid propellants or propellant constituents controlled by 1C011, 1C111 or on the U.S. Munitions List.

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: 1.) See also 1B115. 2.) This entry does not control equipment for the ''production'', handling and acceptance testing of boron carbide.

Related Definitions: * * *

Items:

* * * * *

3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification numbers (ECCNs) 9B115 and 9B116 are revised to read as follows:

9B115 Specially designed ''production equipment'' for the systems, subsystems and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

License Requirements

Reason for Control: MT, AT

Control(s)	Country chart
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value

Related Controls: Although items described in ECCNs 9A004 to 9A009, 9A101, 9A104 to 9A109; 9A111, 9A116 to 9A119 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), the ''production equipment'' controlled in this entry that is related to these items is subject to the export licensing authority of BIS.

Items: The list of items controlled is contained in the ECCN heading.

9B116 Specially designed ''production facilities'' for the systems, subsystems, and components controlled by 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.

License Requirements

Reason for Control: MT, AT

Control(s)	Country chart
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number; components in $ value

Related Controls: Although items described in ECCNs 9A004 to 9A009, 9A101, 9A104 to 9A109; 9A111, 9A116 to 9A119 are subject to the export licensing authority of the Department of State, Office of Defense Trade Controls (22 CFR part 121), the ''production equipment'' controlled in this entry that is related to these items is subject to the export licensing authority of BIS.

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

Dated: September 11, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 02–23716 Filed 9–17–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4121]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Transitional Foreign Student Monitoring Program

AGENCY: Department of State.

ACTION: Interim rule; with request for comments.

SUMMARY: This rule creates an electronic system known as the ''Interim Student and Exchange Authentication System'' (ISEAS) for monitoring the visa adjudication process and visa issuances to foreign students and exchange visitors who enter the United States in F–1,M–1, or J–1 nonimmigrant visa categories. Recent legislation requires ISEAS to be operational by September 11, 2002. ISEAS will remain in operation until the foreign student monitoring system being developed by the INS is fully operational. The Department, the INS, approved institutions of higher education or other approved educational institutions, and exchange visitor program sponsors will use the ISEAS database for the collection and transmission of information pertaining to foreign student and exchange visitor visa applicants to ensure compliance with the legislation.

DATES: Effective date: This interim rule is effective on September 11, 2002. Comment date: Written comments must be submitted on or before November 18, 2002.

ADDRESSES: Submit comments in duplicate to Chief, Legislation and Regulations Division, Visa Services, Department of State, 20520–0106. Comments may also be forwarded via e-mail to *VisaRegs@state.gov* or faxed to 202–663–3898.

FOR FURTHER INFORMATION CONTACT: Nancy Altman, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, 202–261–8040.

SUPPLEMENTARY INFORMATION:

What Is the Background for This Action?

On May 14, 2002, the President signed into law the ''Enhanced Border Security and Visa Entry Reform Act of 2002'' (Border Security Act), Public Law 107–173, section 501 of the Border Security Act addresses the need to improve our ability to track foreign students while in the United States. Section 501(a) expands the Attorney General's responsibilities for monitoring and verification requirements established for students and exchange visitors by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IRRIRA), Public Law 101–649. An electronic information collection and tracking system is being developed by the INS pursuant to these responsibilities (known as the ''Student and Exchange Visitor Information system'' (SEVIS)) and is required to be fully implemented by January 1, 2003.

Section 501(c) of the Border Security Act requires the establishment by the Department of an interim program for the electronic monitoring of foreign student and exchange visitor visa issuance, admission to the United States, and enrollment until SEVIS is fully operational. The interim system, known as ISEAS, will be the means by which the Department, INS, approved educational and vocational institutions and exchange visitor programs meet the legislative requirements under 501(c). Subject to a thirty to sixty day phase-in and testing period, ISEAS will become operational on September 11, 2002.

While section 501(c) of the Act only mandates its application to exchange visitors seeking to attend approved institutions of higher education, the Department has determined to make ISEAS requirements identical to SEVIS requirements regarding the participation of all exchange visitor applicants. The Department also believes that this determination more accurately reflects the intent of Congress as expressed in the USA PATRIOT Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, both of which contain provisions relating to the electronic monitoring of students and exchange visitors. Thus, all exchange visitor visa applications will be subject to ISEAS verification.

Why Is This Action Being Taken?

In light of national security concerns, Congress has mandated an interim electronic system to monitor aliens seeking to enter the United States under the F, M, or J nonimmigrant visa categories. Until SEVIS is fully implemented, ISEAS will facilitate the collection and transmission of student and exchange visitor applicant data by the Department, the INS, approved educational and other educational institutions, and exchange visitor programs to ensure that visa requirements are met before student or exchange visitor visas are issued and that students and exchange visitors, in fact, enroll in the institutions and programs that formed the basis of their visa classifications.

When Must Officials Designated by Institutions and Programs Begin To Use ISEAS?

Will There Be a Phase-in Period?

ISEAS will be available to officials designated by institutions and programs beginning September 11, 2002. These officials should begin entering student and exchange visitor data into the ISEAS database on that date. However, it will not be fully operational for an additional thirty to sixty days after September 11. Therefore, during this phase-in and testing period, entry of data into ISEAS may not guarantee that a consular officer will receive the data electronically. In view of that fact and because no student or exchange visitor visas can be issued on or after September 11 unless the Department receives ''electronic evidence of documentation of the alien's acceptance,'' the Department has devised back-up procedures to ensure that consular officers receive timely electronic verification of enrollment from the sponsoring institutions and programs during the first month or two before ISEAS is fully operational.

Instructions have been sent to all consular posts advising consular officers that if no data has been entered into or a consular officer cannot access data from ISEAS, the officer must send an email inquiry directly to the sponsoring institution or program office and request email confirmation of the student's or exchange visitor's enrollment. Our officers in many cases may be able to obtain email addresses using internet search engines or from the visa applicant directly. The Department also is creating lists of institutional and program web pages, and will be available to assist consular officers in locating email addresses. If a consular officer cannot obtain the electronic verification directly, the Visa Office will seek to obtain it from the sponsoring institution through the Department's internet or email resources.

Thus, admissions offices of all institutions and the acceptance offices of all exchange visitor program sponsors should be aware of the possibility that

despite the fact that they have entered student and program participant information into ISEAS, they may receive direct email requests for verification from consular officers or from the Visa Office if enrollment cannot be verified through ISEAS. These offices should respond promptly to any such request in order not to delay the issuance of a visa to the student or exchange visitor.

The Department also is undertaking an extensive media campaign targeted at institutions and programs that will inform them in detail about the new requirements.

How Does the Transitional Program Work?

Aliens who wish to obtain visas to study or participate in an exchange program in the United States must first apply to an educational institution that has been approved by the INS or to a program approved by the Department's Bureau of Educational and Cultural Affairs. When a student or exchange visitor accepts an offer to study or otherwise participate in an exchange program, the approved institution or program must complete the appropriate form for that institution or program. Academic or language institutions must complete the Form I20A–B, ''Certificate of Eligibility for Nonimmigrant (F–1) Student Status.'' Vocational schools must complete the Form I–20M–N, ''Certificate of Eligibility for Nonimmigrant (M–1) Student Status.'' Designated exchange visitor program sponsors must complete the Form DS–2019, ''Certificate of Eligibility for Exchange Visitor (J–1) Status.''

Section 501(c) requires the approved institution or program to electronically transmit evidence of the student's or exchange visitor's acceptance to the Department. An official designated by an approved institution or program must enter certain information from the Forms I–20A–B, I–20M–N or DS–2019 into the ISEAS database. Consular officers may not issue an F–1, M–1, or J–1 visa unless they have received and reviewed the electronic acceptance data submitted by the approved institution or program. The Department, in turn, must notify the INS upon issuance of an F–1, M–1, or J–1 visa.

The fact that section 501(c) provides that a consular officer may not issue an F–1, M–1 or J–1 visa until the official designated by a school or program enters the appropriate information into ISEAS means that an alien already enrolled in a school or exchange program whose visa expires may not obtain a new visa until the designated official makes the ISEAS entries. Therefore, ISEAS requirements do not apply only to new school and program enrollees. They apply to all principal aliens seeking student and exchange visitor visas after September 11, 2002, whether or not a visa was previously issued to that student or exchange visitor for the same program.

Section 501(c) also requires the INS is to notify the approved institution at the time of the student's or the exchange visitor's admission to the United States. If the student or exchange visitor fails to register for classes or an exchange program, the approved institution must notify the INS of such failure no later than 30 days after the deadline for registration has passed.

How Will Approved Institutions and Programs Transmit Student Acceptance Documentation to the Department?

An official designated by an approved institution or exchange visitor program can enter student or exchange visitor acceptance documentation for transmission to the Department by going to the State Department web page, *www.iseas.state.gov*. The official of the approved institution or program will follow instructions contained on the web page for entering student or exchange visitor identification data. ISEAS checks the list of approved institutions and exchange visitor programs against the identification data entered by the institution or program to determine if the institution or program is on the INS or State Department Bureau of Educational and Cultural Affairs approved list, as appropriate. Once ISEAS confirms that the institution or program is on one of the approved lists, an official designated by the approved institution or program will enter into the database certain student or exchange visitor data contained in the forms I–20, IAP–66 or DS–2019. After each record is entered into the ISEAS database, ISEAS will return a confirmation number. The institution or program sponsor user must download and retain the ISEAS confirmation number as part of the institution's or program sponsor's student or exchange visitor data.

How Is the Department Amending Its Regulations?

The Department is amending its regulations at 22 CFR 41.61 and 41.62 regarding students and exchange visitors by adding the requirement that approved institutions or program sponsors transmit electronic evidence of the foreign student's or exchange visitor's acceptance documentation to the Department. An F–1, M–1, or J–1 visa may not be issued unless a consular officer has received and reviewed the student or exchange visitor acceptance documentation.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department's implementation of this regulation as an interim rule with request for comments is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b) and (d)(3). The Border Security Act requires that the transitional program be operational no later than September 11, 2002. Considerable time was required to develop a program to implement Section 501(c) of the Border Security Act. The Department has determined that there is insufficient additional time to issue a proposed rule with a request for comments, given the need to promulgate regulations in compliance with the statutory deadline of September 11, 2002.

Regulatory Flexibility Act

The Department, 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 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 require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

Accordingly, for the reasons discussed in the preamble, 22 CFR part 41 is amended 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 *et seq.*

2. Amend § 41.61 by revising paragraph (b)(1)(i) and by adding paragraph (d) to read as follows:

§ 41.61 Students—academic and nonacademic.

* * * * *

(b) * * *

(1) * * *

(i) The alien has been accepted for attendance solely for the purpose of pursuing a full course of study in an academic institution approved by the Attorney General for foreign students under INA 101(a)(15)(F)(i) or a nonacademic student institution approved under INA 101(a)(15)(M)(i), as evidenced by submission of a Form I–20A–B, Certificate of Eligibility for Nonimmigrant (F–1) Student Status—For Academic and Language Students, or Form I–20M–N, Certificate of Eligibility for Nonimmigrant (M–1) Student Status—For Vocational Students, properly completed and signed by the alien and a designated school official, and the Department also has received from an official designated by the academic or nonacademic institution electronic evidence documenting the student's acceptance as provided in paragraph (d) of this section;

* * * * *

(d) *Electronic submission.* A student's acceptance documentation must be submitted to the Department via the State Department's WEB page at *http://www.iseas.state.gov.* An official designated by an approved Academic, Language or Vocational school must follow the instructions in the electronic submission process, which include the requirement to enter data from the I–20A–B or the I–20M–N into the ISEAS database and download a copy of the confirmation number issued by ISEAS after each student record is successfully stored. The approved Academic, Language or Vocational school shall retain the ISEAS confirmation number as part of that institution's student data.

3. Amend § 41.62 by revising paragraph (a)(1) and adding paragraph (a)(5) to read as follows:

§ 41.62 Exchange visitors.

(a) * * *

(1) Has been accepted to participate, and intends to participate, in an exchange visitor program designated by the Department of State, as evidenced by the presentation of a properly executed Form IAP–66 or DS–2019, Certificate of Eligibility for exchange visitor status, and the Department has received from an official designated by the exchange visitor program electronic evidence documenting the student's acceptance as provided in paragraph (a)(5) of this section;

* * * * *

(5) *Electronic submission.* An exchange visitor's acceptance documentation must be submitted to the Department via the State Department's WEB page at *http://www.iseas.state.gov.* The designated official from the approved exchange program will follow the instructions in the electronic submission process, which include the requirement to enter data from the previously issued IAP–66 or the DS–2019 into the ISEAS database and download a copy of the confirmation number issued by ISEAS after each student or exchange visitor record is successfully stored. The Exchange program is responsible for retaining the ISEAS confirmation number as part of that program's student or exchange visitor data.

* * * * *

Dated: September 6, 2002.

Dianne Andruch,

Acting Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 02–23625 Filed 9–17–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Changes to Seasons For Muskox in Unit 26(C)

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Emergency closure of season.

SUMMARY: This provides notice of the Federal Subsistence Board's emergency closure to protect Muskox populations in Unit 26(C). This regulatory closure provides an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on June 28, 2002. Those regulations established seasons, harvest limits, methods, and means relating to the taking of wildlife for subsistence uses during the 2002–2003 regulatory year.

DATES: This emergency action will be effective July 15 through September 14, 2002. The resulting season for muskox in Unit 26(C) will be September 15, 2002 through March 31, 2003, unless the Board takes further action.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888.

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 in Alaska, 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. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

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. The Departments administer Title VIII through regulations at Title 50, part 100 and Title 36, part 242 of the Code of Federal Regulations (CFR). Consistent with subparts A, B, and C of these regulations, as revised January 8, 1999, (64 FR 1276), 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, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, 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, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2002–2003 wildlife seasons, harvest limits, and methods and means were published on June 28, 2002, (67 FR 43710) Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Game (BOG), manages the general harvest and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

The emergency change for closure of seasons is necessary to protect declining muskox populations on the North Slope of the Arctic National Wildlife Refuge. This emergency change is authorized and in accordance with 50 CFR 100.19(d) and 36 CFR 242.19(d).

Unit 26(C) Muskox

Muskoxen were reestablished in and near the Arctic National Wildlife Refuge in Unit 26(C) in 1969 and 1970. For several years after their release, numbers of muskoxen increased rapidly and began expanding into regions east (Canada) and west (Unit 26B) of the Refuge. After reaching a peak of 399 animals in 1986, numbers of muskoxen in Unit 26(C) were relatively stable from 1987–1998, but have declined sharply in the past two years.

A conservation concern, for this unit, was recognized when less than 70 muskoxen were counted during aerial surveys made in late June/early July 2002. Reasons for the decline include poor calf recruitment, emigration of muskoxen from Unit 26(C) into regions east and west of the Refuge, and increased predation. Until more calves are born and survive or muskoxen move back into the Refuge, numbers are likely to remain low and could continue to decline. The low number of calves seen in 2000 and 2001 is likely related to severe weather (fall icing conditions, deep snow and a prolonged snow season). Changes in distribution also has affected the number of muskoxen in the Refuge. Between 2000 and 2002, mixed-sex groups with 3 radiocollared animals dispersed eastward into Canada and at least 1 group with a radiocollared animal moved west off the Refuge. Muskoxen may also have dispersed southward into the mountains.

On July 11, 2002 the Federal Subsistence Board, acting through the delegated official and at the request of the North Slope Muskox Working Group, delayed the opening of the muskox season in Unit 26(C), from July 15 to September 15. Delaying the start of the season until September 15 will allow biologists time to conduct additional surveys and to recommend a more permanent course of action to address the population decline of muskoxen in Unit 26(C).

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for this emergency action is impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of wildlife populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d) to make this rule effective as indicated in the **DATES** section.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) signed April 6, 1992. 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. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999, (64 FR 1276.)

Compliance with Section 810 of ANILCA

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. A Section 810 analysis was completed as part of the FEIS process. 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 the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This emergency change does not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

This emergency change has been exempted from OMB review under Executive Order 12866.

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 effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. 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 economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as gun, hunting gear, and gasoline dealers. The number of small entities affected is unknown; but, the effects will be seasonally and geographically-limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness 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 preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the emergency change has no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the emergency change will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the emergency change meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

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

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 these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

Drafting Information

Daniel LaPlant drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

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

Dated: July 17, 2002.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: July 16, 2002.

Kenneth E. Thompson,

Subsistence Program Leader, USDA-Forest Service.

[FR Doc. 02–23640 Filed 9–17–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–104–1–7401a; FRL–7378–7]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve revisions of the Texas State Implementation Plan (SIP). Specifically, EPA is approving revisions to regulations of the Texas Commission on Environmental Quality (TCEQ) which relate to the permitting of new sources and modifications. The EPA is approving revisions which recodify several provisions of the existing SIP without substantive changes and will strengthen the SIP as it pertains to permit alterations and the permitting of new and modified sources. Approval of these revisions will bring the SIP provisions relating to the permitting of new and modified sources more closely in line with Texas' existing program. This action is being taken under section 110 of the Federal Clean Air Act, as amended (the Act, or CAA).

DATES: This final rule is effective on October 18, 2002.

ADDRESSES: Copies of documents relevant to this action, including the Technical Support Document (TSD), are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of the Air Permits Section at (214) 665–7212, or at *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means EPA.

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I. What Are We Approving?

In today's action we are approving into the Texas SIP revisions of Title 30 Texas Administrative Code (TAC), Chapter 116, ''Control of Air Pollution by Permits for New Construction or Modification.'' The Governor of Texas submitted the following revisions to 30 TAC Chapter 116 (Chapter 116) to the Administrator of EPA after adequate notice and public hearing:

A. August 31, 1993 (the ''1993 submittal'')

The 1993 submittal includes revisions adopted by Texas on August 16, 1993. The 1993 submittal includes revisions to and recodification of Chapter 116.[1] The 1993 submittal serves as the base regulation for subsequent revisions that TCEQ has adopted, or will adopt.

B. July 22, 1998 (the ''1998 submittal'')

This submittal includes revisions to Chapter 116 adopted by Texas on June 17, 1998. It includes changes which Texas made under its regulatory reform to simplify and clarify its rules.[2] These changes which do not involve substantive changes include: (1) Using shorter sentences, (2) limiting each citation to one main concept, (3) reordering requirements into a more logical sequence, and (4) using more commonplace terminology.[3]

On September 1, 2002, the Texas Natural Resource Conservation Commission (TNRCC) changed its name to the Texas Commission on Environmental Quality (TCEQ). The revisions to Chapter 116 which we are acting upon herein were adopted prior to the agency changing its name from TNRCC to TCEQ. All rules and regulations, orders, permits, and other final actions taken by the TNRCC remain in full effect unless and until revised by the TCEQ.

In today's action, consistent with the following discussion, we are approving these revisions to Chapter 116 as revisions to the Texas SIP.

II. Background

On September 24, 2001 (66 FR 48796), we published a direct final rule approving revisions to and recodification of Chapter 116. We concurrently published a proposed rulemaking with the direct final rule (66 FR 48850) and stated that if we received any adverse comments by the end of the public comment period we would withdraw the direct final rule. We would then respond to the comments when we take final action on the proposed approval.

On October 24, 2001, we received comment letters from Public Citizen and from Lowerre & Kelly (Lowerre), Attorneys at Law on behalf of Quality of Life El Paso. We withdrew our direct final action on November 23, 2001 (66 FR 58667).

In its October 24, 2001, comments, Public Citizen requested additional time to comment on these SIP revisions. Public Citizen requested the additional time to compare more fully the state's submittal against the current SIP and applicable requirements. In response to Public Citizen's request for additional time to comment on the proposed SIP revisions, we reopened the comment period for 30 days on March 20, 2002 (67 FR 12949). Public Citizen provided additional comments on April 12, 2002.

III. Final Action

A. Are We Approving Proposed Revisions to Chapter 101?

On September 24, 2001 (as part of this action), we proposed to approve revisions to Chapter 101, Section 101.1—Definitions. Specifically, we proposed to approve a revised definition of ''nonattainment area'' and to reinstate the definition of ''de minimis impact'' which we had inadvertently removed from Section 101.1 on August 19, 1997 (62 FR 44083).[4] We received no comments on our proposed action to approve revisions to Section 101.1.

On September 26, 2001, Texas submitted revisions to Section 101.1. On November 14, 2001 (as part of a separate action), we approved the revisions to Section 101.1. See 66 FR 57260. The revisions approved on November 14, 2001, incorporate the revised definition of ''nonattainment area'' and reinstated the definition of ''de minimis impact'' and are consistent with our September 24, 2001 proposal. Accordingly, we have revised the TSD to show this change. We are not approving revisions to Section 101.1 in this action.

B. Why Are We Approving the Revisions to Chapter 116?

Approval of these revisions to Chapter 116 will bring the organizational structure and language of the Federally approved SIP for Chapter 116 more closely in line with the Chapter as it currently exists in the State's program. Our approval of these revisions will also facilitate future revisions to Chapter 116, by enabling us to approve such revisions into the current organizational structure. This approval also better serves the State, the public, and the regulated community by making the approved SIP more closely match the words and format of the rules that Texas currently implements.

C. Have We Approved Any Portions of the 1993 Submittal Prior to Today's Action?

We previously approved portions of the 1993 submittal in separate actions as indicated in Table 1 below.

[1] The 1993 submittal also includes revisions to Chapter 101—General Rules, Section 101.1—Definitions. For the reasons stated in section III.A, we are not approving the 1993 changes to Section 101.1

[2] The 1998 submittal also includes provisions for implementing section 112(g) of the Act, and includes a new Section 116.15—Section 112(g) definitions, and a new Subchapter C—Hazardous Air Pollutants: Regulations Governing Construction or Reconstruction Major Sources (Federal Clean Air Act (FCAA), Section 112(g), 40 CFR part 63). We are taking no action on Subchapter C for the reasons stated in section III.E.1.

[3] The 1998 submittal also includes provisions which Texas adopted subsequent to the 1993 submittal but not yet approved by EPA. Except where otherwise indicated, we are taking no action on revisions made after the 1993 submittal which are not substantially equivalent to the 1993 submittal until we complete our review of these subsequent revisions. See discussion in section III.E.2.

[4] Texas also removed several terms which relate to permitting major sources and major modifications in nonattainment areas, and simultaneously recodified those definitions into Section 116.12. We approved the nonattainment definitions in Section 116.12 and the removal of such terms from Section 101.1 in a separate action at 65 FR 43986 (July 17, 2000).

TABLE 1.—PROVISIONS OF 1993 SUBMITTAL PREVIOUSLY APPROVED BY EPA

Approval date	Provisions approved
09/27/95, 60 FR 49781	Table I, Major Source/Modification Emission Thresholds—in Section 116.12—Nonattainment Review Definitions.
08/19/97, 62 FR 44083	Section 116.10—definition of ''de minimis impact.'' [a] Section 116.141(a), and (c)–(e)—Determination of Fees Section 116.160—Prevention of Significant Deterioration Review Requirements. Section 116.161—Source Located in an Attainment Area with Greater than De Minimis Impact. Section 116.162—Evaluation of Air Quality Impacts. Section 116.163—Prevention of Significant Deterioration Permits Fees.
07/17/00, 65 FR 43986	Section 116.12—Nonattainment Review Definitions. Section 116.150—New Major Source or Major Modification in Ozone Nonattainment Area. Section 116.151—New Major Source or Major Modification in Nonattainment Area Other than Ozone. Section 116.170(1) and (3)—Applicability of Reduction Credits.

[a] The definition of ''de minimis impact'' was repealed from Section 116.10 in the 1998 submittal. Today's action approves the State's repeal of this definition from Section 116.10.

With respect to the sections identified above, today's action approves the codification of these provisions into the organization structure adopted in the 1998 submittal and any nonsubstantive changes to the previously approved provisions.

D. Are We Approving Provisions That Did Not Exist in the Former SIP?

We are approving Section 116.116(c) which sets forth provisions for permit alterations. Section 116.116(c) defines a permit alteration as a variation to a representation in a permit application or in a general or special condition of a permit that decreases the allowable emissions or does not change the character or method of control of emissions. The TCEQ must approve any request for permit alteration which may result in an increase in off-property concentrations of air contaminants, may involve a change in permit conditions, or may affect facility or control equipment performance. Changes subject to permit alterations involve no emissions increase. Like kind replacement of emissions units and new emission units are not allowed under the permit alteration provisions. Permit alterations are not granted for changes which qualify for permit amendments under Section 116.116(b). Such permit amendment is required for any change which involves an increase in emissions or a change in the method of control. Examples of permit alterations include:

(1) Changes to a special condition in a permit to add an annual production rate for a unit that was inadvertently left out,

(2) Revising an emission point to show fugitive emissions and emissions from a newly installed control device as two separate emission points, and

(3) Changes to a special condition to reflect that primary seals for external floating roof tanks may be liquid-mounted primary seals or mechanical shoes. The use of alterations is limited only to changes which involve no increase in emissions and no changes in the method of control. Accordingly, such changes will not result in a violation of the applicable portion of the control strategy [5] or interfere with attainment or maintenance of a national standard, thus meeting the requirements of 40 CFR 51.160.[6] Subsection (c) as submitted in 1998 is equivalent to the 1993 submittal.

We also received comments concerning our proposed approval of the provisions for permit alterations. Section IV contains our response to these comments.

E. Are We Approving All Provisions of Chapter 116?

In today's action, we are not approving the provisions of Chapter 116 identified below. We also received comments concerning our proposal to take no action on these provisions. Section IV contains our response to these comments.

[5] The term ''control strategy'' is defined in 40 CFR 51.100(n) as a combination of measures designated to achieve the aggregate emission reductions necessary for attainment and maintenance of national ambient air quality standards.

[6] 40 CFR 51.160 requires each SIP to contain legally enforceable measures that enable the State to determine whether the construction or modification of a facility, building, structure, or installation, or combination thereof will result in: (1) A violation of applicable portions of the control strategy; or (2) interference with attainment of maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring state.

1. Provisions Implementing Section 112(g) of the Act Concerning Constructed or Reconstructed Major Sources of Hazardous Air Pollutants (HAP)

We are taking no action on Subchapter C of Chapter 116—Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, section 112(g), 40 CFR part 63), as submitted in 1998. The program for reviewing and permitting constructed and reconstructed major sources of HAP is regulated under section 112 of the Act and under 40 CFR part 63, subpart B. Under these provisions, States establish case-by-case determinations of maximum achievable control technology for new and reconstructed major sources of HAP. The process for these provisions is carried out separately from the SIP activities. For the reasons discussed above, we are not approving Subchapter C of Section 116 as submitted in 1998.

In addition, and for the reasons discussed above, we are also not approving other provisions of Chapter 116 which pertain to or refer to Subchapter C. These provisions include:

- Section 116.15—Section 112(g) Definitions,
- Section 116.111(2)(K)—Hazardous Air Pollutants,
- Section 116.115(c)(2)(B)(ii)(I)—Special conditions for sources subject to Subchapter C (Hazardous Air Pollutants),
- Section 116.116(b)(3)—Changes at Section 112(g) facilities, and
- Section 116.130(c)—Applications subject to the requirements of Subchapter C of Chapter 116 (relating to Hazardous Air Pollutants).

2. Provisions of the 1998 Submittal Which Are Not Equivalent to the 1993 Submittal

We are approving the 1998 submittal to the extent that it is equivalent to the 1993 submittal. The 1998 submittal includes new provisions as well as numerous changes that Texas adopted subsequent to the 1993 submittal and carried forward into the 1998 submittal. We are still reviewing the new provisions and the changes carried forward from rulemaking actions adopted subsequent to the 1993 submittal. However, if we wait until we complete our review and evaluation of these provisions, we would have to delay action on the portions of the 1998 submittal that we consider to be approvable. As stated above, we believe that it is important to act on the provisions of the 1998 submittal that are consistent with the 1993 submittal to ensure that the approved SIP more closely matches the rules that the TCEQ administers and enforces.

Accordingly, today's action approves the 1998 submittal to the extent that the 1998 submittal is equivalent to the provisions of the 1993 submittal that we are approving. At this time, we are taking no action on the following provisions of the 1998 submittal that are not equivalent to the 1993 submittal, except where otherwise indicated: [7]

- The following definitions in Section 116.10—General Definitions:

''actual emissions''—Section 116.10(1),
''allowable emissions''—Section 116.10(2),
''best available control technology''—Section 116.10(3),
''facility''—Section 116.10(4),
''grandfathered facility''—Section 116.10(6),
''maximum allowable emission rate table (MAERT)''—Section 116.10(8),
''modification of existing facility''—Section 116.10(9),
''new facility''—Section 116.10(10), and
''qualified facility''—Section 116.10(14).

- Section 116.13—Flexible Permit Definitions;
- Section 116.14—Standard Permit Definitions;
- Section 116.110(a)(2)–(3) and (c) which respectively relate to standard permits, flexible permits, and exclusions from permitting;
- Section 116.115(b) and (c)(2)(A)(i) which respectively relate to general conditions and special conditions for sources subject to standard permits;
- Section 116.116(e)–(f) which respectively relate to changes to qualified facilities and use of credits;
- Section 116.117 which relates to Documentation and Notification of Changes to Qualified Facilities;
- Section 116.118 which relates to Pre-Change Qualification;
- Section 116.132(c)–(d) which respectively relate to additional alternate language public notice;
- Section 116.133(f)–(g) which respectively relate to alternate language sign posting;
- Section 116.136—Public Comment Procedures; [8]
- Subchapter F—Standard Permits; and
- Subchapter G—Flexible Permits.

We are reviewing the provisions which we are not acting upon in this action. When we complete our review, we will take appropriate action on these provisions in separate **Federal Register** actions. The TSD contains a detailed evaluation which documents why we are taking no action on these provisions.

3. Provisions of the 1993 Submittal Which Were Repealed in the 1998 Submittal

Texas repealed the following provisions from Chapter 116 in the 1998 submittal:

- Definitions of ''de minimis impact'' [9] and ''emissions unit'' in Section 116.10—General Definitions, and
- Section 116.110(b)—Operations Certificate.

These provisions of the 1993 submittal were repealed in 1998, and are no longer a part of Chapter 116. Thus, we are not approving these provisions of the 1993 submittal.

4. Emission Reductions: Offsets

In letters to TNRCC (now TCEQ) dated August 3, 1999, and September 27, 2000, we informed them that we had concerns relating to the approval of Sections 116.170(2), 116.174, and 116.175. On the basis of subsequent discussions with Texas on August 15, 2000, EPA and TCEQ have agreed that it is appropriate to take no action on Sections 116.170(2), 116.174, and 116.175 in today's action. Our letter to the State on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TCEQ resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

5. Permit Exemptions

On December 29, 1998, Texas requested that we delay action on approving Subchapter C—Permit Exemptions as submitted in 1993. In a subsequent letter dated April 26, 1999, Texas provided its reason for requesting that we delay approval of Subchapter C. Texas requested the delay because of several bills that were before the Texas Legislature which, if passed and signed into law, would affect the new source permitting structure, including the exemptions from permitting. These bills were passed and signed into law. Because we anticipate that Texas will significantly revise and restructure its provisions for exemptions from permitting, we are delaying action on Subchapter C (as submitted in 1993) pending the submission of these SIP revisions.

Because we are taking no action on Subchapter C as submitted in 1993, the existing provisions of Section 116.6 (Exemptions), approved August 13, 1982 (47 FR 35193) remain in the Texas SIP.

We also received comments concerning our proposed action relating to Permit Exemptions. Section IV contains our response to these comments.

6. Permit Renewals

The Governor submitted Subchapter D (Permit Renewals) of Chapter 116 in the 1993 submittal. However, the 1998 submittal incorporates revisions that Texas adopted after the 1993 submittal and which we have not approved. The changes significantly revise Subchapter D to the extent that it is not equivalent to Subchapter D as submitted in the 1993 submittal. We have not completed our review of these changes and are therefore taking no action on Subchapter D in today's action. We will act on Subchapter D in a separate action following our review of the changes adopted subsequent to the 1993 submittal.

7. Emergency Orders

The Governor submitted Subchapter E (Emergency Orders) as part of the 1993 submittal. An Emergency Order authorizes the immediate action for the addition, replacement, or repair of facilities or control equipment, and

[7] In some cases provisions of the 1998 submittal are readily recognized to be consistent with the Act and have the effect of strengthening the SIP even though they are not equivalent to the 1993 submittal. These provisions are identified in the TSD and where identified are being approved in today's action.

[8] In today's action, we are approving Section 116.136 as submitted in 1993.

[9] We previously approved the definition of ''de minimis impact'' prior to its repeal from Section 116.10 in the 1998 submittal. Today, we are approving the repeal of this definition from Section 116.10. We have not acted upon the other provisions which were repealed in the 1998 submittal.

authorizes the associated emissions of air contaminants, whenever a catastrophic event necessitates such construction. An applicant that qualifies for an Emergency Orders would need to submit an application under the requirements of Section 116.411.

On December 10, 1998, the Governor of Texas submitted additional SIP revisions pertaining to Emergency Orders. In that submittal, Texas recodified and revised the provisions pertaining to Emergency Orders into 30 TAC chapter 35. We are still reviewing the December 10, 1998, SIP revisions. We will act on the provisions relating to Emergency Orders in a separate action.

In letters to Texas dated August 3, 1999, and September 27, 2000, we identified concerns related to Subchapter E, submitted August 31, 1993, and with the revisions submitted December 10, 1998. On the basis of subsequent discussions with Texas on August 15, 2000, the EPA and TCEQ have agreed that it is appropriate to take no action on Subchapter E, submitted August 31, 1993, and the SIP revisions submitted December 10, 1998, in today's action. Our letter to Texas on September 27, 2000, confirmed this understanding. We will act on these provisions in a separate action after TCEQ resolves the outstanding concerns to our satisfaction. Additional information regarding our concerns with these provisions is contained in the TSD.

We also received comments concerning our proposal to take no action on Emergency Orders. Section IV contains our response to these comments.

F. Are There Other Changes That We Are Approving?

On September 24, 2001, we proposed to approve Section 116.137 as submitted in 1993. We proposed to approve the 1993 submittal of Section 116.137 based upon Texas making no changes to the regulatory text of that Section in the 1998 submittal. Further review indicates that in the 1998 submittal Texas changed the title of Section 116.137 from ''Notification of Final Action by the Texas Air Control Board'' to ''Notification of Final Action by the Commission''. Accordingly, we have revised the TSD to show this change. We are approving the 1998 submittal of Section 116.137 in today's action.

G. What Is the Effect of Today's Action?

This action approves the recodification of several provisions of Texas regulations for permitting new and modified sources as submitted August 31, 1993, and July 22, 1978. Today's action replaces several Sections of the former SIP with new Sections under the current numbering system used by Texas in Chapter 116. By approving these revisions, the SIP-approved version of Chapter 116 more closely correlates with the numbering system currently used by Texas.

H. What Provisions of the Former SIP Are Replaced by the Recodified Provisions Approved Today?

Table 2 below cross-references the recodified provisions that we are approving to the corresponding provisions in the former SIP. The table identifies the new SIP citation, the former SIP citation, the adoption date of the section that we are approving, the title of the Section, and any explanatory notes. Where noted, the ''comments'' column may identify portions of the ''New SIP Citation'' which we are not approving in today's action. The reasons for not approving such provisions identified in the ''comments'' column are provided in section III and in the TSD.

TABLE 2.—RECODIFIED PROVISIONS OF CHAPTER 116 APPROVED IN THIS ACTION.

New SIP citation	Date adopted of new SIP citation by state	Former SIP citation	Title	Comments
Chapter 116—Control of Air Pollution by Permits for New Construction or Modification				
Subchapter A—Definitions				
Section 116.10	06/17/98	Sections 101.1, 116.3(a)(1)(B), and 116.14(a)(7).	General Definitions	The New SIP Citation does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14).
Section 116.11	06/17/98	Section 116.14(a)(1)(6)	Compliance History Definitions.	
Subchapter B—New Source Review Permits				
Division 1—Permit Application				
Section 116.110	06/17/98	Sections 116.1(a)–(c), 116.2, and 116.3(b).	Applicability	The New SIP Citation does not include Sections 116.110(a)(2), (a)(3), and (c).
Section 116.111	06/17/98	Section 116.3(a)	General Application	The New SIP Citation does not include Section 116.111(2)(K).
Section 116.112	06/17/98	Sections 116.3(a)(1)(B) and 116.3(a)(13).	Distance limitations.	
Section 116.114	06/17/98	Sections 116.3(f), 116.5, 116.10(a)(1), and 116.10(e).	Application review schedule.	
Section 116.115	06/17/98	Section 116.4	Special provisions	The new SIP citation does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I).
Section 116.116	06/17/98	Section 116.5	Changes to facilities	The New SIP citation does not include sections 116.116(b)(3), (e), and (f).

TABLE 2.—RECODIFIED PROVISIONS OF CHAPTER 116 APPROVED IN THIS ACTION.—Continued

New SIP citation	Date adopted of new SIP citation by state	Former SIP citation	Title	Comments
Division 2—Compliance History				
Section 116.120	06/17/98	Section 116.14(b)	Applicability.	
Section 116.121	06/17/98	Section 116.14(c)	Exemptions.	
Section 116.122	06/17/98	Section 116.14(d)	Contents of Compliance History.	
Section 116.123	06/17/98	Section 116.14(e)	Effective dates.	
Section 116.124	06/17/98	Section 116.14(f)	Public notice of compliance history.	
Section 116.125	06/17/98	Section 116.14(g)	Preservation of existing rights and procedures.	
Section 116.126	06/17/98	Section 116.14(h)	Voidance of permit applications.	
Division 3—Public Notice				
Section 116.130	06/17/98	Section 116.10(a)(7)	Applicability	The new SIP citation does not include Section 116.130(c).
Section 116.131	06/17/98	Section 116.10(a)(1) and (2)	Public notification requirements.	
Section 116.132	06/17/98	Section 116.10(a)(3) and (4)	Public notice format	The new SIP citation does not include Sections 116.132(c) and (d).
Section 116.133	06/17/98	Did not exist	Sign posting requirements	The new SIP citation does not include Sections 116.134(f) and (g).
Section 116.134	06/17/98	Section 116.10(a)(5)	Notification of affected agencies.	
Section 116.136	08/16/93	Section 116.10(b)	Public comment procedures.	
Section 116.137	06/17/98	Section 116.10(c)	Notification of final action by the Commission.	
Division 4—Permit Fees				
Section 116.140	06/17/98	Section 116.11(a) and (e)	Applicability.	
Section 116.141	06/17/98	Section 116.11(b)	Determination of fees	Today's action approves Section 116.141(b). Sections 116.141(a), (c)–(e) were previously approved.
Section 116.143	06/17/98	Section 116.11(c)–(f)	Payment of fees.	

I. What Actions Are We Taking on the Provisions of the 1993 Submittal That We Previously Approved?

Table 3 below identifies previously approved provisions of the 1993 submittal. This action recodifies these previously approved provisions in the format submitted in the 1998 submittal with nonsubstantive changes.

TABLE 3.—RECODIFICATION OF PREVIOUSLY APPROVED PROVISIONS OF THE 1993 SUBMITTAL

SIP citation	Adoption date of rule approved in this action	Title	Approval date and FEDERAL REGISTER page of previously approved SIP	Comments
Chapter 116—Control of Air Pollution by Permits for New Construction or Modification Subchapter A—Definitions				
Section 116.10	06/17/98	General Definitions (definition of ''de minimis impact'').	08/19/97, 62 FR 44083	Repealed.[a]
Subchapter B—New Source Review Permits Division 4—Permit Fees				
Section 116.141(a), (c)–(e)	06/17/98	Determination of Fees	08/19/97, 62 FR 44083	Today's action approves nonsubstantive changes in 1998 submittal.

TABLE 3.—RECODIFICATION OF PREVIOUSLY APPROVED PROVISIONS OF THE 1993 SUBMITTAL—Continued

SIP citation	Adoption date of rule approved in this action	Title	Approval date and FEDERAL REGISTER page of previously approved SIP	Comments
Division 5—Nonattainment Review				
Section 116.150	02/24/99	New Major Source or Major Modification in Ozone Nonattainment Area.	07/17/00, 65 FR 43944.	
Section 116.151	03/18/98	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	07/17/00, 65 FR 43944.	
Division 6—Prevention of Significant Deterioration Review				
Section 116.160	06/17/98	Prevention of Significant Deterioration Requirements.	08/19/97, 62 FR 44083	Today's action approves nonsubstantive changes in 1998 submittal.
Section 116.161	06/17/98	Sources Located in an Attainment Area with a Greater than de Minimis Impact.	08/19/97, 62 FR 44083	Today's action approves nonsubstantive changes in 1998 submittal.
Section 116.162	08/16/93	Evaluation of Air Quality Impacts.	08/19/97, 62 FR 44083.	
Section 116.163	08/16/93	Prevention of Significant Deterioration Permits Fees.	08/19/97, 62 FR 44083.	
Division 7—Emission Reduction: Offsets				
Section 116.170	06/17/98	Applicability of Reduction Credits.	07/17/00, 65 FR 43944	Today's action approves nonsubstantive changes in 1998 submittal.

[a] The definition of ''de minimis impact'' was repealed from Section 116.10 in the 1998 submittal. Today, we are approving the repeal of this definition from Section 116.10.

IV. Response to Comments

The following is a summary of the comments that we received October 24, 2001, and April 12, 2002, and our response to those comments. In a separate document, we have included a more detailed response to comments in the docket for this action. You may obtain a copy of this response to comments by contacting the person identified in the section entitled **FOR FURTHER INFORMATION CONTACT**.

Comment 1: On October 24, 2001, Public Citizen commented that the proposal to take ''no action'' is not consistent with section 110(k)(2) of the Act which provides that, within 12 months of a determination that a State submittal is complete, EPA shall act on the submittal in accordance with section 110(k)(3). Section 110(k)(3) provides for full approval or partial approval and partial disapproval. The only other action available to EPA is conditional approval under section 110(k)(4). Taking no action on a SIP submittal after the 12 month period is not an option under the Act. The deadlines for EPA action on the 1993 and 1998 submittals have long since passed; thus EPA must either approve or disapprove the provisions it has proposed to take no action on.

On April 12, 2002, Public Citizen further commented that it does not believe that EPA has the authority to ''take no action'' on portions of Texas'' SIP submittal. The Act provides for approval, disapproval or partial approval/disapproval within 12 months of a completeness determination. Section 110(k)(3) of the Act.

Response 1: We are neither approving nor disapproving (taking no action on) certain provisions of the Texas SIP submittals in this action because we have outstanding questions regarding those provisions and they remain under review. We believe it would be premature to propose action on these provisions before we resolve our outstanding questions with Texas. Our statements that we are taking no action on those provisions should not be taken to mean that we never intend to act on them. We will approve or disapprove those provisions in future actions on the Texas SIP submittals (unless and to the extent that they are withdrawn by Texas).

Comment 2: On October 24, 2001, Public Citizen commented that the lack of EPA action makes the approved regulations extremely difficult, if not impossible to interpret.

Response 2: As discussed in our September 24, 2001, action, this action makes the approved SIP easier to understand because the SIP will more closely match the State's program and the rules that Texas currently implements.

Furthermore, the Table in 40 CFR 52.2270(c), ''EPA Approved Regulations in the Texas SIP,'' clearly identifies the provisions that we are approving. Additionally, for each entry in the Table, we clearly identify for each Section of the State Regulation that we are approving any provisions in that Section that are not included in the SIP under the Column titled ''Explanation.''

The public can also access the current Federally-approved SIP on the EPA Region 6 Web Site. We update the web site to include all SIP revisions after the SIP revisions become effective. The public can access this Web site, review, and download these approved regulations at: http://www.epa.gov/earth1r6/6pd/air/sip/sip.htm.

The EPA Region 6 staff is available to provide assistance to any person who wants information concerning what is required in the approved

SIP. For this action, any person may obtain information and assistance concerning the SIP regulations approved

by contacting the person identified in the section entitled **FOR FURTHER INFORMATION CONTACT**.

Finally, revising the existing SIP provisions of Chapter 116 will make the Texas New Source Permitting Program easier to understand because the revised provisions will be in the format that TCEQ uses. If we retained the existing provisions of Chapter 116, then for purposes of Federal administration, implementation, and enforcement, we would have to rely upon the existing SIP citations which differ from the TCEQ's regulations. This disparity would add to confusion and misunderstanding concerning the applicable requirements that a source must meet.

Comment 3: On October 24, 2001, Public Citizen commented that EPA should assure that the provisions for which no action is taken are not referenced in the provisions that are approved, which would constitute tacit approval of such provisions.

On April 12, 2002, Public Citizen further commented that EPA is taking no action on sections of the SIP that are referenced in sections that EPA is approving. It is, therefore, often extremely difficult to determine whether a particular provision will be given effect or not.

Response 3: The TSD contains an annotation of the 1993 and 1998 submittals. In the development of this annotation, we reviewed the regulation that we proposed to approve to ensure that the provisions of Chapter 116 do not reference the provisions that we did not propose to approve. The regulations that we proposed to approve do not reference provisions that we are not approving, except for certain references to 30 TAC Chapter 106—Permits by Rule discussed below. See Comment 4 for further discussion of Chapter 106. As stated in the proposed action, we will review the provisions that we did not approve in this action and either approve or disapprove in separate actions.

Comment 4: On April 12, 2002, Public Citizen commented that while EPA says it is not approving Texas' Chapter 106 exemption rules in this action, EPA is approving 116.110(a)(4) which cross-references Chapter 106. Public Citizen also identified cross-references to Chapter 106 in Sections 116.115(c)(2) and 116.116(d) and commented that ''[i]t is unclear, therefore, whether EPA is authorizing sources to rely on the Chapter 106 exemptions for authorization or whether sources are required to obtain a permit under Section 116.111. Such confusion has made it very difficult to comment on the proposal.''

Public Citizen further commented that because EPA is taking no action on certain provisions of Subchapter C of Chapter 116, the **Federal Register** states that EPA is leaving Section 116.6 regarding exemptions in place. Section 116.6 provides that a permit shall not be required for those sources exempted by the Executive Director of the TCEQ because such sources will not make a significant contribution of air contaminants to the atmosphere.

Public Citizen stated that this rule appears to be contrary to section 110(i) of the Act which provides that an Executive Director-granted variance should have no effect on the Federal enforceability of a provision unless the variance is submitted to EPA and approved into the SIP as a source-specific SIP provision. Leaving such a provision in the SIP creates confusion regarding the effect of such variance.

Response 4: We proposed to approve Sections 116.110(a)(4), 116.115(c)(2)(A)(ii), 116.116(d) and (d)(1), and 116.143(2), which contain cross references to Chapter 106. As discussed in the proposal, Texas has not submitted Chapter 106. Chapter 106 is the TCEQ's program for Permits by Rule, which replaced the provisions for Standard Exemptions. Currently the approved SIP recognizes Standard Exemptions in Section 116.6 which we approved on August 13, 1982 (47 FR 35193). The 1993 submittal recodified the provisions for Standard Exemptions into Subchapter C of Chapter 116. In 1996 Texas subsequently recodified its provisions for Standard Exemptions into Chapter 106. In 2000, Texas redesignated the Standard Exemptions to Permits by Rule.

The criteria and conditions that a source must meet to qualify for a Permit by Rule are in Subchapter A of Chapter 106. Our comparison of Subchapter A of Chapter 106 (as it currently exists in Texas rules) with the provisions of Subchapter C of Chapter 116 (as submitted in 1993) indicates no substantive difference between the two sets of regulations. Thus, TCEQ's current provisions which describe the qualifications for a permit by rule are substantially the same as those in Subchapter C of Chapter 116 in the 1993 submittal. These requirements are substantially the same as the provisions for Exemptions that currently exist in Section 116.6.

We are taking no action on Subchapter C of the 1993 submittal for the reasons discussed in the proposal. See 67 FR 48800, (September 24, 2001). Because Texas has not yet submitted Chapter 106, we are retaining Section 116.6 in the approved SIP. This retention will ensure the continuity of Texas' program for recognizing the former Standard Exemptions (now Permits by Rule). The continuity is maintained because the Permits by Rule which TCEQ recognizes under Chapter 106 remain consistent with the Standard Exemptions which are recognized under Section 116.6.

The TCEQ has stated that it will submit relevant provisions of Chapter 106 to EPA at a future date. However, we believe it necessary to approve the 1993 and 1998 submittals of Chapter 116 now for reasons stated in our proposed approval. When Texas submits Chapter 106 for approval into the SIP, we will take appropriate action. If we approve the provisions of Chapter 106 into the SIP, we will remove Section 116.6 from the SIP. Prior to approval of relevant provisions of Chapter 106 into the SIP, the references to Chapter 106 will be deemed consistent with Section 116.6.

Section 116.6 was approved as part of the SIP in EPA's action on August 13, 1982 (47 FR 35193). Thus, approval of Section 116.6 is not part of this action, and references to it are for explanatory purposes only. Under the circumstances, the provisions of Section 116.6 are not subject to public comment or judicial review as part of this action.

Comment 5: On April 12, 2002, Public Citizen requested clarification that Section 116.7—Request for Exemption,[10] is being deleted from the SIP. Public Citizen believes no such exemption provisions should be included in the SIP.

Response 5: We are deleting Section 116.7. We indicated in the September 24, 2001, action that we are deleting all existing entries under Chapter 116 in 40 CFR 52.2270(c), which includes Section 116.7. Thus, our action is to delete Section 116.7.

Comment 6: On April 12, 2002, Public Citizen commented on Section 116.116(b)(1)(C), which EPA proposed to approve. This provision replaces the existing SIP provision (Section 116.5) which provides that the Executive Director of TCEQ must approve any change which results in an increase in the discharge of the various emissions. Section 116.116(b)(1)(C) requires an application for a permit if the change will cause ''an increase in the emissions rate for any air contaminant.'' Public Citizen asserts that this is a substantive

[10] In its April 12, 2002, letter, Public Citizen identified the citation as 117.07. On April 17, 2002, Public Citizen, in response to our inquiry on April 15, 2002, replied that the citation was not correct, and that the correct citation is Section 116.7.

difference that weakens the existing SIP provision. Under the revised provision, according to Public Citizen, sources can vary from application representations and increase their total emissions without submitting an application as long as the emissions rate does not increase. Public Citizen says that sources should be required to obtain authorization and provide for public participation before varying from representations and causing an increase in pollution.

Response 6: The EPA does not agree that the change weakens the SIP. Section 116.116(b)(1) requires that a permit holder obtain a permit amendment prior to varying from any representation (with regard to construction plans or operation procedures in an application for a permit) or permit condition if the change meets any of three the criteria identified in Section 116.116(b)(1). The ''increase in the emission rate of any air contaminant'' (Section 116.116(b)(1)(C)) is one of three criteria that requires a permit amendment. The comment indicates, without giving any examples, that there could be changes where total emissions increase but the emission rate does not increase and, therefore, a permit amendment would not be required. We believe that would be a very unlikely circumstance. If ''emission rate'' is the mass of pollutant emitted per unit of time, any increase in total emissions must result in an increase in the emission rate for some unit of time.

Furthermore, the scenario envisioned in the comment becomes even more unlikely because any such change would also have to fail to trigger one of the other two criteria to avoid the necessity of obtaining a permit amendment. A permit amendment is also required if the change causes a change in the method of control of emissions (Section 116.116(b)(1)(A)) or a change in the character of the emissions [11] (Section 116.116(b)(1)(B)).[12]

It is also worth noting that Texas made this change to Section 116.116(b)(1)(C) in the 1998 submittal. As stated in its proposed rulemaking of the 1998 submittal:

> Changes have been made throughout the rules as the result of ongoing efforts by the commission for regulatory reform. These changes are for the purpose of *simplification and clarification only, and do not involve substantive changes in the requirements of this chapter.* In general, these changes involve using shorter sentences, limiting each citation to one main concept, reordering requirements into a more logical sequence, and using more commonplace terminology. (Emphasis added).

23 *TexReg* 2953 (March 20, 1998). Texas' proposed rulemaking did not specifically discuss changes made to Section 116.116(b)(1)(C), the citation where Texas changed the reference of ''increase in the discharge of the various emissions'' to ''increase in emissions rate.'' The change was made as the result of the regulatory reform, and was not intended to represent a substantive change in the rule. Texas received no comments on the 1998 revisions to Section 116.116(b)(1)(C) and adopted this provision as proposed. *See* 23 *TexReg* 6988 (July 3, 1998).

Taken together, the recodification of the permit amendment provisions from Section 116.5 to Section 116.116(b)(1) are adequate to meet the requirements of 40 CFR 51.160(a).[13] We therefore do not agree with this comment. In today's action we are approving Section 116.116(b)(1).

Comment 7: On October 24, 2001, and April 12, 2002, Public Citizen commented that it objects to EPA's approval of authorization procedures for new construction or modification that do not meet the requirements of 40 CFR part 51. Specifically, Section 116.116(c) (permit alterations) allows sources to make modifications without providing public participation as required under 40 CFR 51.161, which provides for notice and opportunity for public comment on proposed modifications. The Act requires that citizens be provided with at least a 30-day comment period on permit applications. 40 CFR 51.161. In addition, an analysis of the effect of the construction or modification on ambient air quality must be made available to the public.

On October 24, 2001, Lowerre commented that it objects to the approval of Section 116.116 because it does not allow for public participation on complex issues. Lowerre believes that TCEQ should allow for at least a 30 day notice and reasonable time for public comment for all permit changes that effect emissions or the enforceability of the permit.

Response 7: We do not agree that a modification could qualify for a permit alteration under the rules that we are approving. In NSR, a modification is any change as defined in section 111(a)(4) of the Act.[14] Under section 111(a)(4) of the Act, a change is a modification only if it results in an increase in the amount of emissions or results in emissions of an air pollutant not previously emitted. Under Section 116.116(c) [15] a permit alteration is only authorized in very limited circumstances which do not include modifications, where allowable emissions are decreased or where a change does not involve a change in the method of control of emissions or the character of emissions or an increase in the emission rate of any air contaminant. If a change involves an increase in allowable emissions or a change in the method of control or the character of emissions or an increase in the emission rate of any air contaminant, the source would be required to obtain a permit amendment under Section 116.116(b),[16] which would include public participation.[17]

Under 40 CFR 51.161, a state or local agency must provide for public comment on information submitted by owners and operators as part of the ''legally enforceable procedures in § 51.160.'' 40 CFR 51.161(a). The provisions in 40 CFR 51.160 provide that a SIP must contain ''legally enforceable procedures'' concerning the construction or modification of a source.[18] The ''legally enforceable procedures'' of § 51.160 that are referenced in § 51.161 apply only to ''construction or modification.'' Under Section 116.116(c), permit alterations are defined to exclude changes which would qualify as amendments under Section 116.116(b) and as modifications under section 111(a)(4) of the Act or under 40 CFR 51.160 and 51.161.

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[11] As used in Texas' regulations, a change in the character of emissions is a change in the emissions of an air contaminant or change in emissions of a family of air contaminants or change in emissions from chemical contaminant to another.

[12] The criteria in 116.116(b)(1)(A) and (B) are also required under the old SIP (Section 116.5) and are recodified without substantive change.

[13] See Footnote 6.

[14] Section 111(a)(4) of the Act defines the term ''modification '' as ''any physical change in, or change in the method of operation of, a stationary source which *increases the amount of any air pollutant emitted by such source* or which results in the emission of any air pollutant not previously emitted.'' (Emphasis added)

[15] Section 116.116(c), defines a permit alteration as:

(A) A *decrease* in allowable emissions;

(B) any change from a representation in a permit application, general condition, or special condition in a permit that does not cause:

(i) A change in the method of control of emissions;

(ii) A change in the character of emissions; or

(iii) An increase in the emission rate of any air contaminant. (Emphasis added)

[16] See our response to Comment 6 for a detailed discussion of permit amendments under Section 116.116(b).

[17] The TCEQ likewise does not consider permit alterations to be modifications. Examples of alterations include name changes, change of test date, and other ''clean up'' changes. See 66 FR 48801 (September 24, 2001) for further discussion on permit alterations.

[18] See Footnote 6.

Accordingly, the TCEQ is not required to provide opportunity for public comment on permit alterations.

Comment 8: On October 24, 2001, Public Citizen commented that permit alterations are not nonsubstantive and that nothing in Section 116.116 limits approval only to nonsubstantive changes. Public Citizen asserts that Section 116.116(c)(2) references alteration applications for changes that result in an increase in off-property concentrations of air contaminants and which affect facility or control equipment performance, which Public Citizen believes are substantive changes.

On April 12, 2002, Public Citizen commented that alterations are not ''*de minimis*.'' Alterations could result in increases in total emissions and, as acknowledged in the rule itself, could result in increases in off-property concentrations of air contaminants. Section 116.116(c)(2)(A). The proposed alteration provisions should not be approved into the SIP.

Response 8: Under Section 116.116(c)(1) a permit alteration is: a decrease in allowable emissions; or any change from a representation in a permit application, general condition, or special condition in a permit that does not cause (i) a change in the character or method of control of emissions; (ii) a change in the character of emissions; or (iii) an increase in the emission rate of any air contaminant.

Section 116.116(c)(2) provides that requests for permit alterations that must receive prior approval by the Executive Director are those that: (A) Result in an increase in off-property concentrations of air contaminants; (B) involve a change in permit conditions; or (c) affect facility or control equipment performance.

The changes described in Section 116.116(c)(2) identify the types of alterations ''that must receive prior approval by the executive director.''

Such prior approval by the Executive Director assures that the types of changes described in Section 116.116(c)(2) in fact qualify as permit alterations as defined under Section 116.116(c)(1).

In addition, all permit changes, including alterations, must satisfy the provisions of Section 116.111(2)(A)(i) which provides that the ''emissions from the proposed facility will comply with all rules and regulations of the commission and with the intent of the TCAA, *including protection of the health and physical property of the people.''* (Emphasis added)

Thus when a proposed permit alteration will result in an increase in off-property concentrations of air contaminants or will affect facility or control equipment performance, the Executive Directive will have assurance, provided through the technical review of the application, that the emissions from a proposed permit alteration will protect the health and physical property of the people before approving a such request for an alteration.

Comment 9: On October 24, 2001, Lowerre cited a specific example of a concrete products plant which it maintains is attempting to avoid Title V permitting requirements [19] by submitting several permit modifications and forms, including permit alteration applications that are included in Section 116.116. The applicant submitted the applications in an attempt to establish Federally enforceable emission limits below the 100 tons per year major source threshold for particulate matter. Lowerre disagrees with TCEQ that the submission of these applications satisfies the requirements of Title V. Lowerre believes that unless and until all applications and other forms have been approved, the concrete products facility continues to violate Title V.

Lowerre further asserts that TCEQ has been reviewing these applications in piecemeal fashion. While Title V would have allowed for public participation, the TCEQ's piecemeal process for requiring applications separately, especially for the permit alteration applications, does not allow for public participation.

Lowerre also alleges that the source is attempting to circumvent Title V and other rules that apply to major sources. The source is located in an area of Texas which is nonattainment for particulate matter. Lowerre further alleges that the source is subject to nonattainment review for particulate matter. The source has invented a circular argument in an attempt to avoid such requirements.

Response 9: These comments relate to implementation of Section 116.116 rather than to its approvability. This comment only points to an isolated case in which a source allegedly failed to apply appropriate limits on its potential to emit. The appropriate venue for resolving such allegation is through the administration and enforcement of the applicable requirements, not through the disapproval of the regulation. The regulations that we are approving herein are adequate to keep a source's potential to emit below defined and applicable major source and major modification thresholds whenever a source desires to limit its potential to emit below the defined and applicable major source and major modification thresholds. Accordingly, we are approving Section 116.116 as proposed.

Comment 10: On October 24, 2001, Public Citizen commented that EPA should include an analysis that absence of the provisions for which EPA is taking no action will not create gaps or ambiguities, or impediments to implementation of the revised SIP.

Response 10: We have identified no gaps or ambiguities in the approved SIP based upon the absence in the SIP of the provisions for which we are taking no action. Furthermore, other than the sections referring to Chapter 106, Public Citizen has identified no gaps or ambiguities in the regulations that we proposed to approve. Consistent with our response to Comment 4, we do not consider the references to Chapter 106 as an impediment to implementation of the revised SIP. Because we have not found other gaps or ambiguities, we do not consider the approval of these changes as an impediment to implementation of the revised SIP.

Comment 11: On April 12, 2002, Public Citizen commented on Sections 116.410–116.418. EPA should act to deny approval of Texas' Emergency Orders provisions at Sections 116.410–116.418. The Act in section 110(i) provides that, with certain limited exceptions which do not apply here, ''no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator.'' The commission does not appear to be authorized to exempt sources from Federal SIP requirements, even during catastrophic conditions. The inclusion of such a provision in the SIP creates the impression that the commission does have such authority; it should be deleted.

Response 11: We are neither approving nor disapproving (taking no action on) the provisions of the Texas SIP submittals relating to Emergency Orders in this action. We have outstanding questions regarding Texas' regulations concerning Emergency Orders, and they remain under review. We believe it would be premature to propose action before we resolve our outstanding questions with Texas. Our statements that we are taking no action

[19] This refers to the provisions of Title V (Permits) of the Act (42 U.S.C. 7661, 7661a–7661f) and the implementing regulations under 40 CFR part 70 (State Operating Permit Programs). Texas' Title V program was approved in a separate action. *See* 66 FR 63318 (December 6, 2001). Thus, approval of the Texas Title V program is not part of this action, and references to it are for explanatory purposes only. Under the circumstances, the Texas Title V program is not subject to public comment or judicial review as part of this action.

on the regulations for Emergency Orders should not be taken to mean that we never intend to act on them. We expect that we will approve or disapprove those provisions in future actions (unless and to the extent that they are withdrawn by Texas).

Comment 12: On October 24, 2001, Public Citizen commented that EPA should include an analysis that State regulations that EPA is approving meet the NSR requirements of the CAA and 40 CFR part 51, subpart I, §§ 51.160, 51.161, 51.165, and 51.166.[20]

Response 12: With the exception of the provisions in Section 116.116(c),[21] the provisions that we are approving are recodification of previously SIP-approved provisions of Chapter 116. The recodified SIP provisions that we have previously approved already meet the provisions in 40 CFR 51.160 and 51.161. The provisions of 40 CFR 51.160 and 51.161 have not undergone substantial change since November 7, 1986 (51 FR 40669). Furthermore, the recodified provisions of Chapter 116 were not substantially changed in the 1993 and 1998 submittals. Thus the recodified provisions continue to meet the requirements of 40 CFR part 51, subpart I.

We approved these revisions to Chapter 116 based upon our finding that Chapter 116 meets the requirements under 40 CFR part 51, subpart I. The existing regulations and the recodified provisions of the 1993 and 1998 submittals of Chapter 116 continue to meet these provisions of the Act and subpart I.

Concerning our proposed approval of Section 116.116(c) concerning Permit Alterations, we addressed how these provisions meet the requirements of 40 CFR part 51, subpart I in the September 24, 2001, action. *See* 66 FR 48801. Additional discussion is also included in our response to Comments 7 and 8.

Comment 13: On October 24, 2001, Public Citizen commented that EPA must show to the public in another notice that Texas' implementation of the revised SIP is consistent with the requirements of the Act. Otherwise, EPA should withdraw its approvals of Texas' prevention of deterioration (PSD) and nonattainment (NNSR) programs and impose Federal regulations which implement these programs.

Response 13: This action is a recodification of existing provisions of the SIP (except for our approval of Section 116.116(c)). We approved the existing provisions based upon our determination that they meet the applicable provisions of section 110(a)(3)(A) of the Act and the regulations under 40 CFR part 51, subpart I—Review of New Sources and Modifications. The recodified provisions continue to meet the requirements of 40 CFR subpart I and are discussed in response to Comment 12. Public Citizen has provided no information which demonstrates any failure by Texas to implement these requirements in a manner consistent with the Act. Accordingly, we are proceeding with approval of these provisions.

Concerning the comment that EPA should withdraw its approvals of Texas' PSD and NNSR programs, the commenter provided no information under which we could take such action. We approved these provisions in separate actions as discussed in section III.C of this action. These prior actions approving the PSD and NNSR programs contain the documentation which demonstrates that these regulations meet the requirements of the Act. Because the provisions relating to NNSR and PSD are already approved as part of the SIP, they are not part of this action, and references to them are for explanatory purposes only. Under the circumstances, the provisions for NNSR and PSD are not subject to public comment or judicial review as part of this action.

Comment 14: On October 24, 2001, Public Citizen commented that it does not agree that the proposed changes are ''nonsubstantive'' as indicated in the proposal; and is concerned that certain changes are substantive. As an example, Public Citizen argued that the September 24, 2001, action did not mention that Texas repealed operating permit requirements formerly codified in Section 116.3. These SIP approved operating permits requirements apply to minor sources and modifications as well as to major sources, and thus have not been wholly replaced by the State's Title V operating permits program. Public Citizen believes that the removal of the State Operating Permitting provisions is a significant change. Further, Public Citizen commented that EPA failed to provide proper notice of the repeal of this permitting program from the SIP.

On April 12, 2002, Public Citizen further commented that the removal of the operating permit provisions from the SIP is a significant substantive change. The operating permit provisions ensured that facilities actually constructed their plants in accordance with their permits and the representations in their applications and that the plants, as constructed, could meet emissions limits and rates specified in permits and applications. The Chapter 122 Title V operating permit program does not cover all sources covered by former Sections 116.1 and 116.3 and does not serve the same purpose as the Chapter 116 operating permit program. Public Citizen does not believe that EPA has demonstrated that the removal of operating permit requirements from the SIP will not interfere with attainment.

Response 14: Our proposal includes the repeal of the former provisions for Texas' state operating permits under Section 116.3(b). Section 116.3(b) provided that the TCEQ would grant an operating permit when specific demonstrations are made. In the 1993 submittal, Texas repealed Section 116.3(b) and replaced it with Section 116.110(b)—Operations Certification. The TCEQ later repealed Section 116.110(b) in the 1998 submittal. Thus, we did not approve Section 116.110(b) as submitted in 1993. Because the 1993 and 1998 submittals together repealed Texas' former regulations for State Operating Permits and for Operations Certification, these provisions are no longer part of Texas' permitting program. Because the repeal of these provisions were submitted as SIP revisions, we must act on them.

Texas' repeal of its state operating permits provisions is not a significant change in the SIP. The provisions of Chapter 116 that we proposed to approve continue to require sources to meet the conditions that were formerly required under Section 116.3(b). This is shown by comparing the former requirements of Section 116.3(b) to provisions of Chapter 116 that we proposed to approve. Our evaluation follows.

Section 116.3(b)(1) required the facility to comply with the Rules and Regulations of the TCEQ and the intent of the Texas Clean Air Act. This is now required under Section 116.111(2)(A) which provides that each preconstruction permit must ensure that the emissions ''comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and physical property of the people.''

[20] We have already approved the provisions relating to 40 CFR 51.165 (Permit requirements) and 51.166 (Prevention of significant deterioration of air quality) in separate **Federal Register** actions. Thus the provisions which implement the requirements of 40 CFR 51.165 and 51.166 are not part of this action.

[21] Additional discussion of how Section 116.116(c) meets the requirements of 40 CFR subpart I is contained in the direct final action (66 FR 48801, September 24, 2001), in section III.D of this action, and in our responses to Comments 7 and 8.

Section 116.3(b)(2) required the facility to be constructed and operated in accordance with the requirements and conditions contained in the permit to construct. This is now required under Section 116.115(c) which requires sources to comply with the special conditions contained in the permit document.

Section 116.3(b)(2) required the facility to be constructed and operated in accordance with the requirements and conditions contained in the permit to construct. This is now required under Section 116.115(c) which requires sources to comply with the special conditions contained in the permit document. Section 116.116(a) provides that permits are issued under the condition that the source meet representations with regard to construction plans and operation procedures in the permit application; and meet any general and special conditions attached to the permit. Section 116.116(b) further provides that a permit holder shall not vary from any representation or permit condition without obtaining a permit amendment, if the change would cause: a change in the method of control, a change in the character of the emissions, or an increase in emissions rate of any air contaminant.

Section 116.3(b)(3) required the facility to comply with applicable new source performance standards promulgated by EPA under section 111 of the Act, as amended. This is now required under Section 116.111(2)(D) which provides that the preconstruction permit must require compliance with applicable new source performance standard promulgated under 40 CFR part 60.

Section 116.3(b)(4) required the facility to comply with applicable emission standard for hazardous air pollutants promulgated by EPA under section 112 of the Act, as amended. This is now required under Section 116.111(2)(E), which provides that the preconstruction permit must require compliance with applicable National Emission Standards for Hazardous Air Pollutants promulgated under 40 CFR part 61; and Section 116.111(2)(F), which provides that the preconstruction permit must require compliance with applicable requirements of any National Emission Standards for Hazardous Air Pollutants for Source Categories under 40 CFR part 63.

Accordingly, permitted sources must continue to meet the requirements which formerly existed in Section 116.3(b). The repeal of Section 116.3(b) from the SIP is not a relaxation, as its requirements now exist in other provisions of Chapter 116. Therefore, our approval of Texas' repeal of Section 116.3(b) from the SIP is not a substantive change to the SIP.

We also do not agree that we failed to provide proper notice of the repeal of the State Operating Permit program from the SIP. This was clearly provided for in the September 24, 2001, action. We clearly stated that the proposed action was to replace the existing SIP with the recodified regulations that Texas submitted in 1993 and 1998. Specifically, we proposed to delete the existing Section 116.3, which includes Section 116.3(b). *See* 66 FR 48804. The repeal of Section 116.3(b) was submitted as part of the 1993 submittal which included the basis for its repeal. Consequently, the record of the repeal of Section 116.3(b) was part of the 1993 submittal.

Public Citizen provided no information to support its claim that other changes to the recodified provisions are substantive. Accordingly, we find that the recodified provisions of Chapter 116 are nonsubstantive as documented in the TSD for the proposed action.

Comment 15: On April 12, 2002, Public Citizen commented on Section 116.10(5), which is the definition of ''federally enforceable.'' The list of Federally enforceable limitations and conditions should include all conditions of Texas' Title V operating permits issued pursuant to Chapter 122.

Response 15: Texas' definition of ''federally enforceable'' in Section 116.10(5) includes each of the items specified in the Federal definitions of that term in 40 CFR 51.165(a)(1)(xiv) and 51.166(b)(17).[22] The Federal definitions do not require a State to include conditions of permits issued under Title V of the Act as Federally enforceable requirements. Because Texas' definition of ''federally enforceable'' meets requirements of the Federal definitions, it satisfies the requirements of 40 CFR part 51, subpart I. Accordingly, Texas' definition of ''federally enforceable'' is approvable.

[22] ''Federally enforceable'' is defined in both 40 CFR 51.165(a)(1)(xiv) and 51.166(b)(17) to mean:

* * * all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

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 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 November 18, 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 10, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

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 SS—Texas

2. In § 52.2270 the table in paragraph (c) is amended by deleting all existing entries under Chapter 116 and replacing them with new entries as shown below:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
Section 116.6	Exemptions	03/27/75	08/13/82, 47 FR 35194.	
Subchapter A—Definitions				
Section 116.10	General Definitions	06/17/98	09/18/02 and FR cite	The SIP does not include Sections 116.10(1), (2), (3), (4), (6), (8), (9), (10), and (14).
Section 116.11	Compliance History Definitions.	06/17/98	09/18/02 and FR cite.	
Section 116.12	Nonattainment Review Definitions.	02/24/99	07/17/00, 65 FR 43994.	
Subchapter B—New Source Review Permits Division 1—Permit Application				
Section 116.110	Applicability	06/17/98	09/18/02 and FR cite	The SIP does not include Sections 116.110(a)(2), (a)(3), and (c).
Section 116.111	General Application	06/17/98	09/18/02 and FR cite	The SIP does not include Section 116.111(2)(K).
Section 116.112	Distance Limitations	06/17/98	09/18/02 and FR cite.	
Section 116.114	Application Review Schedule	06/17/98	09/18/02 and FR cite.	
Section 116.115	Special Provisions	06/17/98 and FR cite	09/18/02	The SIP does not include Sections 116.115(b), (c)(2)(A)(i), and (c)(2)(B)(ii)(I).
Section 116.116	Amendments and Alterations	06/17/98	09/18/02 and FR cite	The SIP does not include Sections 116.116(b)(3), (e), and (f).

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Division 2—Compliance History				
Section 116.120	Applicability	06/17/98	09/18/02 and FR cite.	
Section 116.121	Exemptions	06/17/98	09/18/02 and FR cite.	
Section 116.122	Contents of Compliance History.	06/17/98	09/18/02 and FR cite.	
Section 116.123	Effective Dates	06/17/98	09/18/02 and FR cite.	
Section 116.124	Public Notice of Compliance History.	06/17/98	09/18/02 and FRccite.	
Section 116.125	Preservation of Existing Rights and Procedures.	06/17/98	09/18/02 and FR cite.	
Section 116.126	Voidance of Permit Applications.	06/17/98	09/18/02 and FR cite.	
Division 3—Public Notice				
Section 116.130	Applicability	06/17/98	09/18/02 and FR cite	The SIP does not include Section 116.130(c).
Section 116.131	Public Notification Requirements.	06/17/98	09/18/02 and FR cite.	
Section 116.132	Public Notice Format	06/17/98	09/18/02 and FR cite	The SIP does not include Sections 116.132(c) and (d).
Section 116.133	Sign Posting Requirements	06/17/98	09/18/02 and FR cite	The SIP does not include Sections 116.133(f) and (g).
Section 116.134	Notification of Affected Agencies.	06/17/98	09/18/02 and FR cite.	
Section 116.136	Public Comment Procedures	08/16/93	09/18/02 and FR cite.	
Section 116.137	Notification of Final Action by the Commission.	06/17/98	09/18/02 and FR cite.	
Division 4—Permit Fees				
Section 116.140	Applicability	06/17/98	09/18/02 and FR cite.	
Section 116.141	Determination of Fees	06/17/98	09/18/02 and FR cite.	
Section 116.143	Payment of Fees	06/17/98	09/18/02 and FR cite.	
Division 5—Nonattainment Review				
Section 116.150	New Major Source or Major Modification in Ozone Nonattainment Area.	02/24/99	07/17/00, 65 FR 43986.	
Section 116.151	New Major Source or Major Modification in Nonattainment Area Other than Ozone.	03/18/98	07/17/00, 65 FR 43986.	
Division 6—Prevention of Significant Deterioration Review				
Section 116.160	Prevention of Significant Deterioration Review Requirements.	06/17/98	09/18/02 and FR cite.	
Section 116.161	Source Located in an Attainment Area with Greater than De Minimis Impact.	06/17/98	09/18/02 and FR cite.	
Section 116.162	Evaluation of Air Quality Impacts.	08/16/93	08/19/97, 62 FR 44083.	
Section 116.163	Prevention of Significant Deterioration Permits Fees.	08/16/93	08/19/97, 62 FR 44083.	
Division 7—Emission Reductions: Offsets				
Section 116.170	Applicability of Reduction Credits.	06/17/98	09/18/02 and FR cite	The SIP does not include Section 116.170(2).
* * * * * * *				

[FR Doc. 02–23584 Filed 9–17–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–02–001; FRL–7253–4]

Approval and Promulgation of Carbon Monoxide Implementation Plan; State of Alaska; Anchorage

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Alaska that concerns attainment of the carbon monoxide (CO) national ambient air quality standards (NAAQS) in the Anchorage CO Nonattainment Area.

EFFECTIVE DATE: This final rule will become effective on October 18, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following locations: EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, Office of Air Quality (OAQ–107), EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1086.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Information on the revisions to the carbon monoxide attainment plan for Anchorage, Alaska is organized as follows:

I. Background Information
II. Final Action
III. Administrative Requirements

I. Background Information

This action finalizes EPA's approval of the Anchorage CO attainment plan submitted by the Alaska Department of Environmental Conservation as a revision to the Alaska State Implementation Plan on January 4, 2002. A detailed description of the Anchorage CO attainment plan and EPA's review was published in a proposed rulemaking in the **Federal Register** on June 3, 2002 (67 FR 38218). EPA received no comments on the proposed approval.

II. Final Action

EPA is approving the following elements of the Anchorage CO Attainment plan submitted on January 4, 2002:

A. Procedural requirements, under section 110(a)(1) of the Act;

B. Base year emission inventory, periodic emission inventory and commitments under sections 187(a)(1) and 187(a)(5) of the Act;

C. Attainment demonstration, under section 187(a)(7) of the Act;

D. The TCM programs under 182(d)(1) and 108(f)(1)(A) of the Act;

E. Contingency measures under section 187(a)(3) of the Act;

F. RFP demonstration, under sections 171(1) and 172(c)(2) of the Act; and

G. The conformity budget under section 176(c)(2)(A) of the Act and section 93.118 of the transportation conformity rule (40 CFR Part 93, Subpart A).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Effect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 18, 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, Reporting and recordkeeping requirements.

Dated: July 23, 2002.

L. John Iani,

Regional Administrator, Region 10.

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 C—Alaska

2. Subpart C is amended by adding § 52.73 to read as follows:

§ 52.73 Approval of plans.

(a) Carbon monoxide.

(1) Anchorage.

(i) EPA approves as a revision to the Alaska State Implementation Plan, the Anchorage Carbon Monoxide Attainment Plan (Volume II, Section III.B of the State Air Quality Control Plan adopted December 20, 2001, effective January 27, 2002 and Volume III.B.3, III B.10 and III.B11, III B.12 of the Appendices adopted December 20, 2001, effective January 27, 2002) submitted by the Alaska Department of Environmental Conservation on January 4, 2002.

(ii) [Reserved]

(2) Fairbanks. [Reserved]

(b) *Lead.* [Reserved]

(c) *Nitrogen dioxide.* [Reserved]

(d) *Ozone.* [Reserved]

(e) *Particulate matter.* [Reserved]

(f) *Sulfur dioxide.* [Reserved]

[FR Doc. 02–23083 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0190; FRL–7196–7]

Triclopyr; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) in or on fish and shellfish. Dow Agrosciences LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective September 18, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0190, must be received on or before November 18, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket identification (ID) number OPP–2002–0190 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0190. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of February 25, 1998 (63 FR 9519) (FRL–5768–4), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–

170), announcing the filing of a pesticide petition (PP 1F3935) by Dow Agrosciences LLC, 9330 Zionville Rd, Indianapolis, IN 46268–1054. This notice included a summary of the petition prepared by Dow Agrosciences LLC, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.417 be amended by establishing a tolerance for combined residues of the herbicide triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP), in or on fish at 3.0 parts per million (ppm) and shellfish at 3.5 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) on fish at 3.0 ppm and shellfish at 3.5 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by triclopyr are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—ACUTE TOXICITY OF VARIOUS FORMS OF TRICLOPYR

Guideline No.	Study Type	Results
Acute Toxicity of triclopyr acid, technical grade		
870.1100	Acute oral	Lethal dose (LD_{50}) = 729 milligram/kilogram (mg/kg) Male (M); 630 mg/kg Female (F) Category III
870.1200	Acute dermal	LD_{50} > 2,000 mg/kg Category III
870.1300	Acute inhalation	Not available
870.2400	Primary eye irritation	Not available
870.2500	Primary skin irritation	Not available
870.2600	Dermal sensitization	Not available
870.6200	Acute neurotoxicity	Not available
Acute toxicity of triclopyr triethylamine salt		
870.1100	Acute oral	LD_{50} = 1,847 mg/kg (M & F) Category III
870.1200	Acute dermal	LD_{50} > 2,000 mg/kg Category III
870.1300	Acute inhalation	LC_{50} > 2.6 mg/liter (L) Category III
870.2400	Primary eye irritation	Corrosive Category I
870.2500	Primary skin irritation	Not irritating Category IV
870.2600	Dermal sensitization	sensitizer

TABLE 1.—ACUTE TOXICITY OF VARIOUS FORMS OF TRICLOPYR—Continued

Guideline No.	Study Type	Results
870.6200	Acute neurotoxicity	Not available
Acute toxicity of triclopyr butoxyethyl ester		
870.1100	Acute oral	LD_{50} = 803 mg/kg (M & F) Category III
870.1200	Acute dermal	LD_{50} > 2,000 mg/kg Category III
870.1300	Acute inhalation	LC_{50} > 4.8 mg/L Category III
870.2400	Primary eye irritation	Minimally irritating Category III
870.2500	Primary skin irritation	Not irritating Category IV
870.2600	Dermal sensitization	sensitizer
870.6200	Acute neurotoxicity	Not available

TABLE 2.—TOXICITY PROFILE OF TRICLOPYR

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity rodents with acid - rat	NOAEL = 5 mg/kg/day in males and females LOAEL = 20 mg/kg/day in males and females based on degeneration of the proximal tubules of the kidneys
870.3100	90–Day oral toxicity rodents with ester - rat	NOAEL = 7 mg/kg/day in males and < 7 mg/kg/day in females LOAEL = 28 mg/kg/day in males, 7 mg/kg/day based on increased relative kidney weight (M) and decreased red blood cell content, hemoglobin content, and packed cell volume (F). Degeneration of the proximal tubules of the kidneys was seen in males at 70 and 350 mg/kg/day and females at 350 mg/kg/day highest dose tested (HDT).
870.3150	183–Day oral toxicity nonrodents - dog	NOAEL ≤ 2.5 mg/kg/day (HDT) in males and females LOAEL > 2.5 mg/kg/day in males and females based on toxicologically non-significant decreased rate of phenolsulfothalein (PSP) due to competition between triclopyr and PSP for renal excretion.
870.3200	21–Day dermal toxicity - rabbit	NOAEL = 1,000 mg/kg/day (males and females) LOAEL > 1,000 mg/kg/day. Decreased alkaline phosphatase in both sexes of rabbits at 1,000 mg/kg/day and increased absolute and relative liver weight in males at 1,000 mg/kg/day were considered marginal and not of toxicological significance.
870.3700	Prenatal developmental with ester - rats	Maternal NOAEL = 100 mg/kg/day Maternal LOAEL = 300 mg/kg/day based on mortality, clinical signs, necropsy findings, decreased body weight gains, decreased food consumption, increased water consumption, and increased relative kidney and liver weight. Developmental NOAEL = 100 mg/kg/day Developmental LOAEL = 300 mg/kg/day based on increased incidence of hydrocephalus, cleft palate, microphthalmia/anophthalmia, retinal folds, thin diaphragm/protrusion of the liver, decreased fetal weight and visceral and skeletal anomalies and variants.
870.3700	Prenatal developmental with ester - rabbits	Maternal NOAEL = 30 mg/kg/day Maternal LOAEL = 100 mg/kg/day based on mortality Developmental NOAEL = 30 mg/kg/day Developmental LOAEL = 100 mg/kg/day based on decreased total live fetuses and increased total fetal deaths, as well as increased fetal and/or litter incidence of skeletal anomalies and variants.

TABLE 2.—TOXICITY PROFILE OF TRICLOPYR—Continued

Guideline No.	Study Type	Results
870.3700	Prenatal developmental with salt - rabbit	Maternal NOAEL = 30 mg/kg/day Maternal LOAEL = 100 mg/kg/day based on mortality, abortions, decreased body weight gain, decreased food efficiency, increased liver and kidney weight. Developmental NOAEL = 30 mg/kg/day Developmental LOAEL = 100 mg/kg/day based on decreased live fetuses and increased embryonic deaths due to abortions.
870.3700	Prenatal developmental with salt - rat	Maternal NOAEL = 100 mg/kg/day Maternal LOAEL = 300 mg/kg/day based on mortality Developmental NOAEL = 100 mg/kg/day Developmental LOAEL = 300 mg/kg/day based on decreased fetal weight, increased fetal and litter incidence of skeletal anomalies, increased fetal incidence of unossified sternebrae.
870.3700	Prenatal developmental with acid - rat	Maternal NOAEL = < 50 mg/kg/day Maternal LOAEL = 50 mg/kg/day based on increased clinical signs Developmental NOAEL = 100 mg/kg/day Developmental LOAEL = 200 mg/kg/day based on increase incidence of fetuses and litters with retarded ossification of skull bones, and two litters (one fetus per litter) with cleft palate and brachycephaly.
870.3800	Reproduction and fertility effects with acid - rat	Parental/Systemic NOAEL = 5 mg/kg/day in males and in females Parental/Systemic LOAEL = 25 mg/kg/day in males and females based on increased incidence of proximal tubular degeneration in male and female P1 and P2 rats. Reproductive/Offspring NOAEL = 5 mg/kg/day in males and females Reproductive/Offspring LOAEL = 25 based on increased incidence of F2 pups with exencephaly and ablepharia.
870.4100a	228–Day toxicity study - acid - dogs	NOAEL = 10 mg/kg/day in males and females LOAEL = 20 mg/kg/day in males and females based on decreased body weight gain (M), decreased hematological parameters (M), changes in clinical chemistry (both sexes), and liver histopathology (both sexes).
870.4100b	Chronic toxicity (1 year) - acid - dogs	NOAEL ≤ 5 mg/kg/day in males and females LOAEL > 5 mg/kg/day in males and females based on changes in clinical chemistry which are due not to toxicity, but a physiologic response of the dog based on limited ability of the dog to excrete organic acids at higher plasma concentrations.
870.4300	Chronic/carcinogenicity - acid - rats	NOAEL = 12 mg/kg/day in males, ≤ 36 mg/kg/day in females LOAEL = 36 in males, > 36 mg/kg/day in females based on marginal increases in proximal tubular degeneration at 6 months. Increase in adrenal gland pheochromocytoma in males and significant trend (< 0.05) for mammary gland adenocarcinomas in females.
870.4300	Carcinogenicity - acid - mice	NOAEL = 84 mg/kg/day in males, 109.5 mg/kg/day in females LOAEL = 143 mg/kg/day in males, 135 mg/kg/day in females based on decreased weight gain No evidence of carcinogenicity in males, but females had a significant trend (< 0.05) for mammary gland adenocarcinomas
870.5265	Gene mutation	Triclopyr BEE was non-mutagenic when tested up to 5,000 μg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535 and TA1537.
870.5265	Gene mutation	Triclopyr acid was non-mutagenic when tested up to 10,000 μg/plate or cytotoxic levels, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535, TA1537, and TA1538.
870.5300	Gene mutation	In the rec - assay, triclopyr acid produced no evidence of growth inhibition for the repair competent (H17) or repair deficient (M45) *B. subtilis* bacterial strains when tested up to 2,000 μg/disk.
870.5300	Gene mutation	In the host-mediated assay, triclopyr acid was negative for mutagenicity at doses up to 70 mg/kg in ICR random bred mice when tested against indicator organisms
870.5395	*In Vivo* Cytogenetic assay - rats	Triclopyr acid was negative for chromosomal aberrations in the cytogenetic assay when administered singly or for 5 days to Sprague-Dawley rats up to 70 mg/kg/day
870.5395	*In vivo* Mouse micronucleus	Triclopyr BEE was not clastogenic in the mouse micronucleus test up to 600 mg/kg (HDT)

TABLE 2.—TOXICITY PROFILE OF TRICLOPYR—Continued

Guideline No.	Study Type	Results
870.5550	Unscheduled DNA synthesis	Triclopyr BEE did not cause DNA damage or inducible repair in the rat hepatocyte unscheduled DNA synthesis
870.5550	Unscheduled DNA synthesis	Triclopyr acid did not produce any evidence of unscheduled DNA synthesis, as determined by radioactive tracer procedures (nuclear silver grain counts), in rat primary hepatocyte cultures exposed up to cytotoxic levels.
870.5450	Dominant lethal assay - mice	Triclopyr acid was negative for the dominant lethal mutagenic effect in treated male rats which were fed for 9 consecutive weeks at doses up to 70 mg/kg/day and mated to virgin females.
870.5450	Dominant lethal assay - rats	Triclopyr acid was negative for the dominant lethal mutagenic effect in treated male rats at doses up to 70 mg/kg/day given by oral intubation followed by mating to 2 untreated females per week for 7 weeks
870.7485	Metabolism and pharmacokinetics - rat	In a rat metabolism with C14-triclopyr acid at doses of 3 mg/kg (single, low dose), 3 mg/kg x 14 days (repeated low dose) and 60 mg/kg (high dose), triclopyr was well absorbed and rapidly excreted at the low dose or repeated low dose. At 60 mg/kg, excretion was decreased between 0–12 hours due to saturation of renal excretion mechanisms (attainment of zero order kinetics). Unmetabolized parent represented > 90% of the urinary radioactivity, with the remainder present as primarily TCP.
870.7500	Dermal penetration study in humans	In an oral and dermal pharmacokinetics study of triclopyr in human volunteers, triclopyr was administered orally and dermally to six human volunteers. More than 80% of the administered dose was found as unchanged triclopyr in the urine. An average of 1.65% of the dermally applied dose was recovered in the urine and represented dermal penetration of triclopyr.

B. Toxicological Endpoints

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

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

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for triclopyr used for human risk assessment is shown in the following Table 3:

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRICLOPYR IN HUMAN RISK ASSESSMENTS[1]

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary General population	NOAEL = 100 mg/kg/day UF = 100 acute RfD = 1.0 mg/kg/day	FQPA SF = 1X aPAD = aRfD ÷ FQPA SF = 1.0 mg/kg/day	Developmental toxicity study with BEE- rat LOAEL = 300 mg/kg/day based on clinical signs on GD 7

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRICLOPYR IN HUMAN RISK ASSESSMENTS[1]—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary Females 13–50 years old	NOAEL = 5 mg/kg/day UF = 100 acute RfD = 0.05 mg/kg/day	FQPA SF = 1X aPAD = aRfD ÷ FQPA SF = 0.05 mg/kg/day	2–Generation reproduction study with acid - rat LOAEL = 25 mg/kg/day based on increased incidence of F2 pups with exencephaly and ablepharia
Chronic dietary All populations	NOAEL= 5.0 mg/kg/day UF = 100 Chronic RfD = 0.05 mg/kg/day	FQPA SF = 1X cPAD = cRfD ÷ FQPA SF = 0.05 mg/kg/day	2–Generation reproduction study with acid - rat LOAEL = 25 mg/kg/day based on increased incidence of proximal tubular degeneration in male and female P1 and P2 rats
Short-term incidental, oral (1–30 days) Swimmer, residential	Oral NOAEL = 100 mg/kg/day	LOC for MOE = 100	Developmental rat studies with BEE and TEA (co-critical) LOAEL = 300 mg/kg/day based on mortality (both studies), clinical signs (red and/or green staining) beginning on GD 7 (BEE study) and GD 15 (TEA study) and decreased body weight gain on GD 6–20 (BEE study)
Intermediate-term incidental, oral (1–6 months) Residential	Oral NOAEL = 5.0 mg/kg/day	LOC for MOE = 100	Subchronic toxicity (feeding) with acid - rat LOAEL = 20 mg/kg/day based on histological changes in the kidney (degeneration of the proximal renal tubule)
Short-term dermal (1–30 days) (Occupational/residential)	Oral NOAEL = 5.0 mg/kg/day Dermal absorption = 2%	LOC for MOE = 100	2–Generation reproduction study with acid - rat LOAEL = 25 mg/kg/day based on increased incidence of F2 pups with exencephaly and ablepharia
Intermediate-term dermal (1–6 months) Occupational/residential	Oral NOAEL = 5.0 mg/kg/day Dermal absorption = 2%	LOC for MOE = 100	2–Generation reproduction study with acid - rat and 90–day feeding study with acid - rat (co-critical) LOAEL = 20 mg/kg/day (90 day study) and 25 mg/kg/day (2–generation rat reproduction study) based on histological changes in the kidney in both studies (degeneration of the proximal renal tubules)
Long-term dermal (6 months-lifetime) (Occupational/residential)	Oral NOAEL = 5.0 mg/kg/day Dermal Absorption = 2%	LOC for MOE = 100	2–Generation reproduction study with acid - rat LOAEL = 25 mg/kg/day based on increased incidence of proximal tubular degeneration in male and female P1 and P2 rats
Short-term inhalation (1–30 days) (Occupational/residential)	Oral NOAEL = 5.0 mg/kg/day Inhalation absorption rate = 100%	LOC for MOE = 100	2–Generation reproduction study with acid - rat LOAEL = 25 mg/kg/day based on increased incidence of F2 pups with exencephaly and ablepharia
Intermediate-term inhalation (1–6 months) Occupational/residential	Oral NOAEL = 5.0 mg/kg/day Inhalation absorption rate = 100%	LOC for MOE = 100	2–Generation reproduction study with acid - rat and 90 Day feeding study with acid - rat (co-critical) LOAEL = 20 mg/kg/day (90 day study) and 25 mg/kg/day (2–generation rat reproduction study) based on histological changes in the kidney in both studies (degeneration of the proximal renal tubules)

TABLE 3.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRICLOPYR IN HUMAN RISK ASSESSMENTS[1]—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and LOC for Risk Assessment	Study and Toxicological Effects
Long-term inhalation (6 months-lifetime) Occupational/residential	Oral NOAEL= 5.0 mg/kg/day Inhalation absorption rate = 100%	LOC for MOE = 100	2–Generation reproduction study with acid - rat and 90 Day feeding study with acid - rat (co-critical) LOAEL = 20 mg/kg/day (90 day study) and 25 mg/kg/day (2–generation rat reproduction study) based on histological changes in the kidney in both studies (degeneration of the proximal renal tubules)
Cancer (oral, dermal, inhalation)	Cancer classification (''Group D'')	Risk Assessment not required	Group D chemical

1 UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, LOC= data base for triclopyr is complete and adequate for FQPA assessment; a developmental level of concern, MOE = margin of exposure. The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

In accordance with the Agency's 1999 Guidelines for Carcinogenic Risk Assessment, triclopyr has been classified as a ''Group D'' chemical - not classifiable as to human carcinogenicity (not entirely negative, but yet not convincing). Although increases in the incidence of two tumor types was observed in the acceptable carcinogenicity studies (mammary gland adenocarcinomas in female mice and rats, and benign adrenal pheochromocytomas in male rats), the Agency determined that the Group D classification is appropriate because: (1) The increased incidence of these tumor types was only marginal; (2) statistical significance was not achieved by pairwise comparisons of mammary gland adenocarcinomas in treated female mice to the concurrent controls; (3) a dose-related response in tumor incidence was not apparent in female rat mammary gland adenocarcinomas and in male rat benign adrenal pheochromocytomas following treatment with triclopyr; (4) no evidence of genotoxicity in a full battery of mutagenicity assays conducted with the triclopyr acid, triethylamine salt and the butoxyethyl ester was observed; and (5) data from structural analogs, such as chlorpyrifos, did not provide additional support for carcinogenicity. Experimental data on chlopyrifos demonstrated that this insecticide is not a carcinogen and unlike triclopyr, is more readily metabolized. Given the only marginal indication of carcinogenic potential, EPA does not expect triclopyr to pose a cancer risk to humans.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.417) for the combined residues of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) in or on grasses, forage and grasses, forage, hay; and the combined residues of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) in or on rice, grain; rice, straw; eggs; meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry. Risk assessments were conducted by EPA to assess dietary exposures from triclopyr as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A refined acute analysis was performed using anticipated residue levels for rice, fish, shellfish, and livestock commodities, default processing factors, and making use of percent crop treated (PCT) values for all commodities except fish and shellfish. A value of 1% was used wherever values < 1% were reported. For acute dietary risk, HED's LOC is > 100% aPAD. A probabilistic assessment was conducted, using 1,000 iterations in the Monte Carlo analysis.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic dietary exposure analysis made use of the same assumptions that went into the acute analysis described above, except that average anticipated residue levels were used in a deterministic analysis.

iii. *Cancer.* As described above, given the only marginal evidence supporting triclopyr's carcinogenic potential, EPA has determined qualitatively, based on the weight of the evidence, that triclopyr is not expected to pose a cancer risk to humans and, therefore has not conducted a quantitative analysis.

iv. *Anticipated residue and PCT.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to

contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: 100% fresh-water fish and shellfish; 6% rice; 1% hay.

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

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP).

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

TCP, 3,5,6-trichloro-2-pyridinol is a metabolite of triclopyr, chlopyrifos, and chlorpyrifos-methyl. Accordingly, EPA has assessed the risk of triclopyr taking into account aggregate exposure to TCP resulting from triclopyr, chlorpyrifos, and chlorpyrifos-methyl.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. The toxicology data base for triclopyr is adequate according to the Subdivision F Guideline requirements for a food-use chemical. Acceptable developmental toxicity studies in the rat and rabbit are available, as is an acceptable 2–generation reproduction study in the rat. In determining the degree of concern and residual uncertainties, the Agency examined the need for an additional safety factor to account for the concern. In both the prenatal and postnatal study in rats with triclopyr, there were clearly defined NOAELs and LOAELs for developmental and offspring toxicities. The Agency noted that although the skull malformations (exencephaly and ablepharia) are rare, they occurred at a dose (25 mg/kg/day) above the dose (5mg/kg/day) that is used for acute and chronic dietary and residential exposure risk assessments. The other anomalies seen in the rat following *in utero* exposure occurred even at much higher dose levels (LOAEL = 200 mg/kg/day). The Agency determined that it is unlikely that the occurrence of commonly seen developmental effects would go undetected or under estimated since the rare findings were clearly observed following both prenatal and postnatal exposures.

3. *Conclusion*. There is a complete toxicity data base for triclopyr and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has determined that the Special FQPA SF of 10x can be reduced to 1x because:

i. The toxicology data base is complete for FQPA special SF determination;

ii. There is no susceptibility identified following *in utero* exposure in rabbits;

iii. There is qualitative susceptibility identified following *in utero* as well as prenatal and postnatal exposure of the rat, however, these effects occurred at a dose (25 mg/kg/day) above the dose (5 mg/kg/day) that is used for acute and chronic dietary and residential exposure risk assessments;

iv. The developmental neurotoxicity study is not required for this chemical;

v. There are no residual uncertainties associated with the exposure assessments performed for the dietary food and drinking water or the residential pathway.

In addition, the Agency determined that no traditional additional safety factor (addressing data deficiencies) is needed because: The Agency concluded that the toxicological data base for triclopyr is complete and adequate for FQPA assessment; a developmental neurotoxicity study was not required for triclopyr and no additional safety factors are needed to account for toxicology data deficiencies.

The default FQPA SF of 10X has been retained on TCP because at this time, an individual analysis has not been conducted as to whether a different safety factor would be appropriate.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water,

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

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

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

1. *Triclopyr* i.—*Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) will occupy 0.6% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, 0.8% of the aPAD for all infants and 1% of the aPAD for children 1–6 years old. In addition, there is potential for acute dietary exposure to triclopyr in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO TRICLOPYR

Scenario/Population Subgroup	aPAD, mg/kg/day	Acute Food Exposure, mg/kg/day	Maximum Acute Water Exposure[1], mg/kg/day	Surface Water EEC[2], ppb	Acute DWLOC[3], ppb
U.S. Population	1.0	0.006245	0.993755	1,000	35,000
All infants (< 1 year old)	1.0	0.000770	0.999230	1,000	10,000
Children (1–6 years old)	1.0	0.009764	0.990236	1,000	9,900
Children (7–12 years old)	1.0	0.006929	0.993071	1,000	9,900
Females (13–50 years old)	0.05	0.005328	0.044672	1,000	1,300
Males (13–19 years old)	1.0	0.008638	0.991362	1,000	35,000
Males (20+ years old)	1.0	0.005200	0.994800	1,000	35,000
Seniors (55+ years old)	1.0	0.005671	0.994329	1,000	35,000

[1] Maximum acute water exposure (mg/kg/day) = aPAD (mg/kg/day) - acute food exposure from DEEM® (mg/kg/day).
[2] 2Peak drinking water estimate based on proposed aquatic uses.
[3] 3The acute DWLOCs were calculated as follows: DWLOC (μ/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/μg.

ii. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) from food will utilize 0.2 % of the cPAD for the U.S. population, 0.02 % of the cPAD for all infants under 1 year old and 0.2% of the cPAD for Children 1–6 years old. Based the use pattern, chronic residential exposure to residues of triclopyr is not expected. In addition, there is potential for chronic dietary exposure to triclopyr in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO TRICLOPYR

Scenario/Population Subgroup	cPAD, mg/kg/day	Chronic Food Exposure, mg/kg/day	Maximum Chronic Water Exposure[1], mg/kg/day	Surface Water EEC[2], ppb	Chronic DWLOC[3], ppb
U.S. Population	0.05	0.000084	0.049916	390	1,700

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO TRICLOPYR—Continued

Scenario/Population Subgroup	cPAD, mg/kg/day	Chronic Food Exposure, mg/kg/day	Maximum Chronic Water Exposure[1], mg/kg/day	Surface Water EEC[2], ppb	Chronic DWLOC[3], ppb
All infants (< 1 year old)	0.05	0.000008	0.049992	390	500
Children (1–6 years old)	0.05	0.000105	0.049895	390	500
Children (7–12 years old)	0.05	0.000070	0.049930	390	500
Females (13–50 years old)	0.05	0.000082	0.049918	390	1,500
Males (13–19 years old)	0.05	0.000096	0.049904	390	1,700
Males (20+ years old)	0.05	0.000091	0.049909	390	1,700
Seniors (55+ years old)	0.05	0.000079	0.049921	390	1,700

[1] Maximum chronic water exposure (mg/kg/day) = cPAD (mg/kg/day) - chronic food exposure from DEEM (mg/kg/day).
[2] Chronic drinking water estimate based on aquatic uses.
[3] The chronic DWLOCs were calculated as follows: DWLOC (μ/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/μg.

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

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

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 477 for females 13–50 years old, 5,950 for children 1–6 years old, 9,890 for all infants less than 1 year old, and 11,500 for children 7–12 years old. These aggregate MOEs do not exceed the Agency's LOC for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of triclopyr in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's LOC, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO TRICLOPYR

Population	Short Term Scenario				
	Target MOE[1]	Aggregate MOE (food and residential)[2]	Max Water Exposure[3] mg/kg/day	Surface Water EEC[4](μg/L)	Short-Term DWLOC[5](μg/L)
All Infants (<1 year)	100	9,890	0.989892	390	9,900
Children 1–6 years old	100	5,950	0.983195	390	9,800
Children 7–12 years old	100	11,500	0.99131	390	9,900
Females 13–50 years old[6]	100	477	0.039518	390	1,200

[1] Basis for the target MOE: interspecies and intraspecies uncertainty factors totaling 100.
[2] Aggregate MOE = NOAEL ÷ (Chronic Food Exposure + Residential Exposure. Home post application & swimming)
[3] Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Exposure)
[4] Chronic drinking water estimate based on aquatic uses.
[5] DWLOC(μg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ water consumption (L) x 10^{-3} mg/μg (10 kg body weight assumed, except for Females, 13–50, 60 kg)
[6] Although this dose/endpoint was not specifically identified for use in short-term incidental oral aggregate risk calculations for females 13–50, the Agency believes the use of the acute dieatry endpoint is appropraite to evelauate this senario.

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

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

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 142,000 for all infants less than 1 year of age, 37,900 for children 1–6 years of age, and 51,500 for children 7–12 years of age. These aggregate MOEs do not exceed the Agency's LOC for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of triclopyr

in surface water. After calculating DWLOCs and comparing them to the EECs for surface water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's LOC, as shown in the following Table 7:

TABLE 7.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO TRICLOPYR

Population	Intermediate-term Scenario				
	Target MOE [1]	Aggregate MOE (food and residential)[2]	Max Water Exposure[3] mg/kg/day	Surface Water EEC[4] (µg/L)	Intermediate-Term DWLOC[5] (µg/L)
All Infants (< 1 year)	100	142,000	0.049965	390	500
Children 1–6 years old	100	37,900	0.049868	390	500
Children 7–12 years old	100	51,500	0.049903	390	500

[1] Basis for the target MOE: interspecies and intraspecies uncertainty factors totaling 100.
[2] Aggregate MOE = NOAEL ÷ (Chronic Food Exposure + Residential Exposure (toddler soil ingestion only))
[3] Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Exposure (toddler soil ingestion only))
[4] Chronic drinking water estimate based on aquatic uses.
[5] DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ water consumption (L) x 10^{-3} mg/µg (10 kg body weight assumed

v. *Cancer*. Given the only marginal indication of carcenogenic potential, EPA does not expect triclopyr to pose a cancer risk to humans.

2. *TCP (3,5,6-trichloro-2-pyridinol)*. TCP is a metabolite of triclopyr, chlorpyrifos, and chlorpyrifos-methyl. Thus, contributions from all three chemicals are needed to adequately estimate the total amount of TCP exposure from food, water and residential sources.

TCP aggregate exposure risk assessments were performed for acute and chronic aggregate exposure (food + drinking water). TCP residential exposure risk assessments were not conducted because triclopyr residential assessments were deemed protective of TCP residential exposures for reasons explained below.

Since the Agency does not have ground and surface water monitoring data to calculate a quantitative aggregate exposure, drinking water levels of concern (DWLOCs) were calculated.

i. *Acute risk*. Because the aPAD for TCP is based on developmental toxicity effects, the only population subgroup of concern for acute dietary exposure is females 13–50 years old. The developmental toxicity study in rabbits had a developmental NOAEL = 25 mg/kg/day based on increased incidence of hydrocephaly and dilated ventricles seen at 100 mg/kg/day (LOAEL).

The Agency's LOC for acute exposure to TCP is for exposures greater than 100% of the aPAD of 0.025 mg/kg/day. An aggregate assessment of TCP resulting from uses of chlorpyrifos, chlorpyrifos-methyl, and triclopyr provides an acute dietary estimate for females 13–50 years old that utilizes 22% of the aPAD when using percent crop treated values for the registered uses and assuming all shellfish and freshwater fish contain triclopyr residues and 90% of the triclopyr residues are present as TCP.

The results of the TCP acute aggregate risk analysis indicate that the acute aggregate dietary risk estimate for the Females 13–50 years old population subgroup does not exceed the Agency's LOC. The aggregate TCP EEC of 510 ppb is less than the DWLOC of 590 ppb. Thus, acute aggregate risk estimates are below the Agency's LOC. Table 8 summarizes the acute aggregate exposure to TCP residues.

TABLE 8.—ACUTE AGGREGATE EXPOSURES TO TCP RESIDUES

Scenario/Population	Subgroup aPAD, mg/kg/day	Acute Food Exposure[1], mg/kg/day	Maximum Acute Water Exposure[2], mg/kg/day	Surface Water EEC[3], ppb	Acute DWLOC[4], ppb
Females (13–50 years old)	0.025	0.005447	0.019553	510	590

[1] Acute aggregate TCP exposure from Table 3.
[2] Maximum acute water exposure (mg/kg/day) = aPAD (mg/kg/day) - acute food exposure from DEEM (mg/kg/day).
[3] Peak drinking water estimate based on sum of TCP levels from chlorpyrifos/chlorpyrifos-methyl and triclopyr uses.
[4] The acute DWLOC was calculated as follows: DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption L/day x 0.001 mg/µg

ii. *Chronic risk*. The Agency's LOC for chronic exposure to TCP is for exposures greater than 100% of the cPAD of 0.012 mg/kg/day from a 1–year chronic dog study with a NOAEL 12 mg/kg/day based on alterations in clinical chemistry levels at 48 mg/kg/day (LOAEL). An aggregate assessment of TCP resulting from uses of chlorpyrifos, chlorpyrifos-methyl, and triclopyr provides an chronic dietary estimate for all infants that utilize 0.5 % cPAD to children 1–6 years old that utilizes 1.5% of the cPAD for TCP when using PCT values for the registered uses and assuming all shellfish and freshwater fish contain triclopyr residues and 90% of the triclopyr residues are present as TCP.

The results of the TCP chronic aggregate risk analysis indicates that the chronic dietary risk estimates for all adult population subgroups do not exceed the Agency's LOC. The aggregate TCP EEC of 340 ppb are less than the DWLOCs for all population adult subgroups. The Agency notes that the chronic aggregate risk assessment for TCP exceeds the Agency's LOC (the

chronic DWLOC) for infants and children.

TABLE 9.—CHRONIC AGGREGATE EXPOSURES TO TCP RESIDUES

Scenario/Population Subgroup	Subgroup cPAD, mg/kg/day	Chronic Food Exposure[1], mg/kg/day	Maximum Chronic Water Exposure[2], mg/kg/day	Surface Water EEC[3], ppb	Chronic DWLOC[4], ppb
U.S. Population	0.012	0.000110	0.011890	340	420
All infants (<1 year old)	0.012	0.000056	0.011944	340	120
Children (1–6 years old)	0.012	0.000185	0.011815	340	120
Children (7–12 years old)	0.012	0.000120	0.011880	340	120
Females (13–50 years old)	0.012	0.000099	0.011901	340	360
Males (13–19 years old)	0.012	0.000098	0.011902	340	420

[1] Chronic aggregate TCP exposure from Table 5.
[2]Maximum chronic water exposure (mg/kg/day) = cPAD (mg/kg/day) - chronic food exposure from DEEM (mg/kg/day).
[3]Chronic drinking water estimate based on sum of TCP levels from chlorpyrifos/chlorpyrifos-methyl and triclopyr uses (see Table 6).
[4]The chronic DWLOCs were calculated as follows: DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption L/day x 0.001 mg/µg

Although the generally conservative aggregate risk assessment based on modeling data exceeds the Agency's LOC under the chronic exposure scenario for infants and children, the Agency has biomonitoring data on 416 individuals that include all pathways and routes of exposure (food, water, residential, dermal, oral, and inhalation). The Agency believes that the biomonitoring study represents a worse case scenario since 120 children that were monitored were from households where their residents had been treated with a termiticide containing chlorpyrifos. All adult exposures measured in studies represented less than 8% of the cPAD for TCP. For children 1–6 years old, 95% of the individuals had exposures that utilized 4.5% of the cPAD or less. The Agency feels the biomonitoring studies represent a worst-case scenario and that chronic exposure to TCP for children will be significantly lower than shown through biomonitoring. The Agency reached this conclusion based on the fact that chlorpyrifos and chlorpyrifos methyl were the main source of TCP compared to triclopyr. At the time of the biomonitoring study 35X more chlorpyrifos and chlorpyrifos methyl was being used than triclopyr. With the cancellation of all uses of chlorpyrifos methyl with the exception of the stored grain use, the post-construction use of chlorpyrifos as a termiticide being canceled at the end of 2002, the pre-construction use of chlorpyrifos as a termiticide being canceled in 2004/2005 unless submitted data shows acceptable exposure levels (due to the circumstances of its application significant exposure, is not expected from pre-construction use of chlorpyrifos but data has been required to confirm this assumption), and homeowner applied chlorpyrifos products having been canceled, the chronic exposure to TCP should be significantly lower than shown through the biomonitoring.

iii. *Residential assessment.* A residential assessment was not done for TCP. The residential uses of triclopyr are expected to result in exposure to levels of TCP levels that are approximately 100X less than the estimated triclopyr levels and the short term dermal endpoint for TCP is 5X higher than same endpoint for triclopyr. Residential TCP exposures are not expected from chlorpyrifos or chlorpyrifos-methyl. All chlorpyrifos-methyl uses (stored grain only) should be completely phased out by 2004. For chlorpyrifos, the following reductions are in progress: Pre-construction termiticide uses will be completely phased out by 2004 unless submitted data shows acceptable risks, post-construction termiticide uses will be completely phased out by 2002, homeowner applied products have been canceled, and major reductions in professionally applied residential lawn/ornamental products are expected.

3. *Determination of safety for Triclopyr and TCP.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to triclopyr and TCP.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (capillary gas chromatography with mass selective detection (GC/MSD)(GRM 97.02) is available to enforce the tolerance expression. The method may be requested from: Paul Golden, Analytical Chemistry Lab, Office of Pesticide Programs, Environmental Protection Agency, Environmental Science Center, 701 Maples Road, Fort Meade, MD 20755–5350; telephone number: (410) 305–2960; e-mail address: golden.paul@epa.gov.

B. International Residue Limits

There are no established or proposed Codex, Canadian, or Mexican maximum residue levels (MRLs) for triclopyr residues. Therefore, harmonization is not an issue at this time.

V. Conclusion

Therefore, the tolerance is established for combined residues of triclopyr and its metabolites, 3,5,6-trichloro-2-pyridinol (TCP) and 2-methoxy-3,5,6-trichloropyridine (TMP) in or on fish at 3.0 ppm and shellfish at 3.5 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0190 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2002.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0190, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as

the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 9, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.417 is amended by alphabetically adding the commodities ''Fish''and ''Shellfish'' to the table in paragraph (a)(1) to read as follows:

§ 180.417 Triclopyr; tolerances for residues.

(a) General. (1) * * *

Commodity	Parts per million
* * *	* *
Fish	3.0
* * *	* *
Shellfish	3.5

* * * * *

[FR Doc. 02–23746 Filed 9–17–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0256; FRL–7274–9]

Indoxacarb; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of indoxacarb in or on cranberry. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cranberry. This regulation establishes a maximum permissible level for residues of indoxacarb in this food commodity. The tolerance will expire and is revoked on December 31, 2004.

DATES: This regulation is effective September 18, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0256, must be received on or before November 18, 2002.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; e-mail address: conrath.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop producers (NAICS 111)
- Animal producers (NAICS 112)
- Food Manufacturing (NAICS 311)
- Pesticide Manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also

be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2002–0256. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insecticide indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantiomer [(R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate], in or on cranberry at 0.5 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Indoxacarb on Cranberry and FFDCA Tolerances

The Massachusetts Department of Food and Agriculture have indicated that populations of the cranberry weevil in the state have developed resistance to the registered alternative, chlorpyrifos. Without adequate control, this pest was expected to result in significant crop damage and yield losses for cranberry growers, leading to significant economic losses. The state requested indoxacarb for this use, since field trials have shown it to be effective at controlling this pest. EPA has authorized under FIFRA section 18 the use of indoxacarb on cranberry for control of the cranberry weevil in Massachusetts. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of indoxacarb in or on cranberry. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this tolerance will expire and is revoked on December 31, 2004, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cranberry after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D) of the FFDCA , EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of indoxacarb and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for combined residues of indoxacarb in or on cranberry at 0.5 ppm.

A. Toxicological Endpoints

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by indoxacarb, a summary of the toxicological dose and endpoints for indoxacarb for use in this human risk assessment, and the most recent estimated aggregate risks resulting from registered uses are discussed in the **Federal Register** for July 18, 2002 (67 FR 47299) (FRL–7186–2) final rule establishing tolerances for residues of indoxacarb in/on alfalfa forage, alfalfa hay, peanut, peanut hay, potato, soybean seed, soybean aspirated grain fractions, and soybean hulls.

Refer to the July 18, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment, including this use on cranberry.

B. Exposure Assessment

EPA assessed risk scenarios for indoxacarb under acute and chronic scenarios. Because there are no residential uses or exposure scenarios, short- and intermediate-term aggregate risk assessments were not conducted. Nor was a cancer aggregate risk assessment conducted, because indoxacarb is classified as ''not likely'' to be a human carcinogen.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the acute exposure assessments: An acute Tier 2 (partially refined) dietary assessment was performed with use of anticipated residues (ARs) from field trial data, processing factors (where applicable), and assumed 100 percent of crop treated (%CT). ARs for meat, milk, poultry, and eggs were also calculated.

Using these exposure assumptions, EPA concluded that indoxacarb acute exposures from food consumption are below levels of concern (<100% of the acute Population Adjusted Dose (aPAD)) for the general US population and all population subgroups. The amount of the aPAD utilized for the most highly exposed subgroup, Females (13–50 yrs old) is 41%. Acute risk from dietary exposure for the most highly exposed infant/children subpopulation, Children (1–6 yrs old) is at 12% of the aPAD. For the general US Population and all other population subgroups, acute risk from dietary exposure is estimated at 6% of the aPAD. In addition, despite the potential for acute dietary exposure to indoxacarb in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model estimated environmental concentrations (EECs) of indoxacarb in surface and ground waters, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 1.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO INDOXACARB

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
General US Population	0.12	6	13.7	0.02	3900
Females (13–50 yrs old)	0.12	41	13.7	0.02	350
Children (1–6 yrs old)	0.12	12	13.7	0.02	1100

The following assumptions were made for the chronic exposure assessments: The chronic dietary assessment assumed tolerance level residues, default processing factors and 100% CT. Refinements using ARs, actual processing factors, and %CT data would result in lower chronic dietary exposure estimates.

Using these exposure assumptions, EPA concluded that indoxacarb chronic exposures from food consumption are below levels of concern (<100% of the cPAD) for the general US population and all population subgroups. The cPAD utilized for the most highly exposed subgroup, Children (1–6 yrs old) is 90%. Chronic risk from dietary exposure for Infants (<1 year old) is 4% of the cPAD, and for Children (7–12 yrs old) it is 52% of the cPAD. Chronic dietary risk for the general US Population is 36% of the cPAD, and the estimated chronic risk for all other population subgroups is below this level. In addition, despite the potential for chronic dietary exposure to

indoxacarb in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of indoxacarb in surface and ground waters, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2.

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO INDOXACARB

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
General US Population	0.02	36	3.7	0.02	450
Children (1–6 yrs old)	0.02	90	3.7	0.02	21
Children (7–12 yrs old)	0.02	52	3.7	0.02	97
Infants (<1 yr old)	0.02	49	3.7	0.02	100

Short and intermediate term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Indoxacarb is not registered for use on any sites that would result in residential exposure, and thus short- and intermediate-term exposures are not expected, so these risk assessments were not conducted.

Indoxacarb is classified as ''not likely'' to be a human carcinogen, so the Agency did not conduct a cancer aggregate risk assessment.

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to indoxacarb residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (HPLC/UV Method AMR 2712–93) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits established for indoxacarb residues in/on any crop commodities. Therefore, no compatibility problems exist for this tolerance.

C. Conditions

A maximum of four applications may be made. A maximum of 0.11 pound active ingredient (lb. a.i.) may be applied using ground, aerial, or chemigation equipment. No more than 0.44 lb. a.i. may be applied per acre per season.

VI. Conclusion

Therefore, the tolerance is established for combined residues of indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantiomer [(R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate], in or on cranberry at 0.50 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0256 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 18, 2002.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

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

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or

refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP–2002–0256, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final

rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 11, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.564 is amended by adding the following language and table to paragraph (b) to read as follows:

§ 180.564 Indoxacarb; tolerances for residues.

(a) * * *

(b) Time-limited tolerances are established for the residues of indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno [1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate] and its R-enantiomer [(R)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

Commodity	Parts per million	Expiration/revocation date
Cranberry	0.50	12/31/04

* * * * *

[FR Doc. 02–23745 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7377–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Tulalip Landfill Superfund Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 10, announces the deletion of the Tulalip Landfill which is located within the Tulalip Indian Reservation in Snohomish County, Washington, from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Tulalip Tribes have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Gaines, EPA Point of Contact, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop ECL–110, Seattle, WA 98101, (206) 553–1066.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Tulalip Landfill Site, Snohomish County, Washington.

A Notice of Intent to Delete for this site was published in the **Federal Register** on June 7, 2002 (67 FR 39326). The closing date for comments was July 8, 2002. EPA received two comment letters. One comment letter received by EPA was from the Department of Interior (the Department) requesting that the deletion be delayed because a study conducted last year identified that some of the osprey in the Everett Harbor vicinity were having problems with reproduction and deformities. EPA has determined that the selected remedy for Tulalip Landfill has been, and still is, protective of human health and the environment. Monitoring has demonstrated that the remediated landfill represents only a minor source of contamination to the highly industrialized Everett Harbor. The Department is in the process of conducting a new study in the Everett Harbor and is looking specifically at the osprey issue. EPA welcomes the opportunity to discuss the results of the new study and, as necessary, at ways to evaluate the problem on a larger harbor-wide basis which includes several other sources of contamination. The Tulalip Tribes (the lead Natural Resource Trustee for this site) and the National Oceanic and Atmospheric Administration remain supportive of the deletion.

The other commentor asked if EPA is changing the requirement in the Record of Decision (ROD) to maintain the selected remedy in perpetuity. EPA is not changing the requirement in the ROD to maintain the selected remedy in perpetuity. Consistent with the ROD, the Operation and Maintenance (O&M) Plan will be fully implemented at the site in perpetuity, or until EPA determines that implementation of the O&M Plan is no longer necessary. EPA has a legal commitment from Washington Waste Hauling and Recycling to conduct O&M activities for the first four years, and the Tulalip Tribes for the next 26 years. These agreements are contained in a consent decree with EPA. The need to continue O&M activities after the first 30 years will be revisited at that time. Institutional controls, including land use restrictions, groundwater use restrictions, environmental buffer zones and maintenance of an entrance sign, are in place and will continue to be implemented in perpetuity.

The same commentor also asked if EPA is confident that mechanisms for Tulalip Landfill are sufficient to ensure that perpetual care is maintained. EPA is confident that appropriate mechanisms are in place with the Tulalip Tribes to implement the ROD, including institutional controls.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not

affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

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

Dated: September 6, 2002.

L. John Iani,

Regional Administrator, Region 10.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the entry for the ''Tulalip Landfill'' site, ''Marysville, WA.''

[FR Doc. 02–23471 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7379–1]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion for the Del Norte County Pesticide Storage Area Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Deletion for the Del Norte County Pesticide Storage Area Superfund Site (Site) located in Crescent City, California, from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The EPA and the State of California, through the California Department of Toxic Substances Control, have determined that all appropriate response actions under CERCLA, other than Operation and Maintenance and Five-Year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Beatriz Bofill, Project Manager, U.S. EPA, Region IX, SFD–7–2, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 972–3260 or (800) 231–3075.

SUPPLEMENTARY INFORMATION: The Site to be deleted form the NPL is the Del Norte County Pesticide Storage Area Superfund Site, in Crescent City, California.

A Notice of Intent to Delete for this Site was published in the **Federal Register** August 8, 2002 (67 FR 51528). The closing date for comments on the Notice of Intent to Delete was September 9, 2002. No comments were received, therefore, EPA has not prepared a Responsiveness Summary. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment, and it maintains the NPL as the list of those sites. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at these sites warrant such actions. Deletion of a site from the NPL does not affect responsible party liability or impede EPA's efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

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

Dated: September 10, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

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

PART 300—[AMENDED]

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

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

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the entry for ''Del Norte Pesticide Storage, Crescent City, CA,''.

[FR Doc. 02–23742 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 020131023–2056–02; I.D. 091002F]

Pacific Halibut Fisheries; Oregon Sport Fisheries

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

ACTION: Inseason action; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the central coast of Oregon. This action opens the all-depth sport halibut fisheries off the central Oregon coast for additional days on September 18 and 19. The intention of this action is to give Oregon anglers access to remaining 2002 halibut quota before the closure of West Coast sport halibut fisheries on September 30, 2002.

DATES: Effective 0001 local time, September 13, 2002, through the **Federal Register** publication of the 2003 specification management measures. Comments on this rule will be accepted through October 3, 2002.

ADDRESSES: Submit comments to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. 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: Yvonne deReynier or Jamie Goen (NMFS, Northwest Region), 206–526–6140.

SUPPLEMENTARY INFORMATION: The Area 2A Catch Sharing Plan (Plan) for Pacific halibut off Washington, Oregon, and California was implemented for 2002 via final rule on March 20, 2002 (67 FR 12885). Those regulations established the 2002 combined north central and south central Oregon subquota for all-depth sport fisheries at 229,103 lb (104 mt) This fishery is managed with two

main all-depth openings in May and in August, with subquotas for the separate openings. If the main May all-depth opening does not take all of the halibut set aside for that opening, NMFS coordinates with the Oregon Department of Fish and Wildlife (ODFW) and with the International Pacific Halibut Commission (IPHC) to reopen the fishery in May and June on pre-determined days. Any May all-depth quota that is not taken in the main May opening or in subsequent May-June openings is held for use in the August all-depth fishery. If the main August all-depth opening does not take all of the halibut set aside for that fishery, NMFS again coordinates with ODFW and IPHC to reopen the fishery in August and September on pre-determined days. For 2002, the Plan's final rule set pre-determined additional opening days for August-September on August 23–24 and on September 20–21.

Oregon central coast sport halibut landings have proceeded at an unusually slow pace in 2002. Participating anglers and charterboat operators attribute the decreased fishery participation to both bad weather days and to a lower nation-wide public interest in recreational traveling. The May all-depth fisheries took approximately 126,255 lb (57 mt) which is 45,189 lb (21 mt) below the 171,444 lb (78 mt) of halibut available for these fisheries.

The halibut quota not taken in the main May all-depth opening and the subsequent May-June all-depth reopenings was made available to the August all-depth opening, increasing the pre-season August all-depth quota from 57,660 lb (26 mt) to 102,949 lb (46.7 mt). The main August all-depth opening was held on August 2 and 3. Because this main opening again did not take the quota available to the August-September all-depth fisheries, NMFS conferred with ODFW and IPHC and re-opened the fishery on the pre-determined reopening dates of August 23–24.

In reviewing Oregon central coast sport halibut landings through the August 23–24 fishery, ODFW alerted NMFS and IPHC that an additional 39,732 lb (18 mt) of halibut remained in the all-depth quota. In addition, the state agency also reported that the Oregon central coast nearshore fishery had taken just 2,017 lb (0.9 mt) of its 19,797 lb (9.0 mt) quota through the end of August.

NMFS reviewed the Plan, the 2002 halibut fishery regulations, and central Oregon landings through the end of August with ODFW and IPHC via telephone conference on August 30, 2002. Under the Plan, NMFS may move halibut quota from the nearshore fishery to the all-depth fishery if it appears unlikely that the nearshore fishery will use all of its quota before the season closure on September 30. Also under paragraph (f)(5) of the Plan, ''Flexible Inseason Management Measures,'' NMFS may take inseason action to revise or add fishing season dates if the action is necessary to allow allocation objectives to be met, and if the action will not result in exceeding the catch limit for the area.

In reviewing available halibut quota from the nearshore and all-depth fisheries and landings patterns in the all-depth fisheries for 2002, NMFS, ODFW, and the IPHC determined that both the all-depth fishery and the nearshore fishery landings for 2002 would likely be well below their quotas without additional inseason measures to allow all-depth fishing beyond the pre-determined reopening dates of September 20 and 21. In conferring, the agencies agreed that by shifting 15,000 lb (6.8 mt) of quota from the nearshore fishery to the all-depth fishery, adequate quota would remain available to the nearshore fishery for the remainder of the 2002 season. The agencies also agreed that by adding 15,000 lb (6.8 mt) to the halibut available to the all-depth fishery for a total of 54,732 lb (24.8 mt,) sufficient quota would be available to provide additional all-depth opening dates. The all-depth halibut fishery is expected to take approximately 10,000 lb (4.5 mt) to 12,000 lb (5.4 mt) per day.

NMFS discussed potential additional opening dates with ODFW and IPHC and determined that re-opening the fishery for 4 consecutive days, September 18–21, would be preferable to re-opening on the pre-determined dates of September 20–21 and then again on the following weekend of September 27–28. Oregon's recreational hunting season opens the last weekend of September and many of the persons who would normally participate in recreational halibut fisheries are expected to also participate in the start of the hunting season. NMFS determined that allowing additional all-depth opportunities for the purpose of maximizing angler access to the quota would be best accomplished by providing additional opening dates prior to the start of the Oregon hunting season.

To meet the objectives of the Plan and for the reasons stated above, NMFS has determined that an inseason management action is needed to provide additional opening dates for the Oregon central coast all-depth sport halibut fishery on September 18 and 19, 2002. This inseason action would set the final all-depth opportunity for Oregon central coast sport halibut fishing for September 18–21.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2002 Pacific halibut management measures (67 FR 12885, March 20, 2002).

1. On page 12895, in section 24. Sport Fishing for Halibut, paragraph (4)(b)(v)(A)(3) is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(4) * * *
(b) * * *
(v) * * *
(A) * * *

(*3*) The third season is open on August 2 and/or 3 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 229,103 lb (103.9 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 2 and/or 3. If the harvest during this opening does not achieve the 229,103 lb (103.9 mt) quota, the season will reopen. Season reopening dates are August 23, 24, and September 18–21. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

* * * * *

2. On page 12896, in section 24. Sport Fishing for Halibut, paragraph (4)(b)(vi)(A)(3) is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(4) * * *
(b) * * *
(vi) * * *
(A) * * *

(*3*)The third season is open on August 2 and/or 3 or until the combined quotas for the all-depth fisheries in the subareas described in paragraphs (v) and (vi) of this section totaling 229,103 lb (103.9 mt) are estimated to have been taken and the area is closed by the Commission, whichever is earlier. An inseason announcement will be made in mid-July as to whether the fishery will be open on August 2 and/or 3. If the harvest during this opening does not achieve the 229,103 lb (103.9 mt) quota, the season will reopen. Season

reopening dates are August 23, 24, and September 18–21. If a decision is made inseason to allow fishing on one or more of these dates, notice of the reopening date will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825.

* * * * *

Classification

This action is authorized by the regulations implementing the Area 2A Pacific Halibut Catch Sharing Plan. The determination to take these actions is based on the most recent data available. The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(B) because doing so would be impracticable and contrary to the public interest. Providing prior notice and opportunity for public comment would be impracticable because it would delay action beyond the September 30, 2002, closure of West Coast sport halibut fisheries. Providing prior notice for public comment would be contrary to the public interest because it would prevent the Oregon sport fisheries from having access to remaining halibut quota available off the central Oregon coast. For the above reasons, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(3).

Public comments will be received for a period of 15 days after the effectiveness of this action. This action is authorized by section 25 of the annual management measures for Pacific halibut fisheries published on March 20, 2002 (67 FR 12885), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 773–773k.

Dated: September 13, 2002

John H. Dunnigan

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

[FR Doc. 02–23738 Filed 9–13–02; 4:27 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 011218302–1302–01; 091202B]

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of the Fishery for Pacific Sardine North of Pt. Piedras Blancas, CA

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

ACTION: Closure of the fishery for Pacific sardine north of Pt. Piedras Blancas.

SUMMARY: NMFS announces the closure of the fishery for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast north of Pt. Piedras Blancas, CA, (35° 40' N. lat.) at 0001 hrs local time on September 14, 2002. The closure will remain in effect until the reallocation of the remaining portion of the coast wide harvest guideline is required by the Coastal Pelagics Species Fishery Management Plan (FMP). That reallocation is expected to occur on or about October 1, 2002. The purpose of this action is to comply with the allocation procedures mandated by the FMP.

DATES: Effective 0001 hrs September 14, 2002, through December 31, 2002, or until the harvest guideline is reallocated by notice in the **Federal Register**.

ADDRESSES: The data that was used as the basis for this action is available for public inspection at the Office of the Acting Regional Administrator, Rodney R. McInnis, Southwest Region (Regional Administrator), NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, (562) 980–4036.

SUPPLEMENTARY INFORMATION: The harvest guideline for Pacific sardine for the 2002 fishing season was published at 66 FR 66811 (December 27, 2001). For the fishing season January 1, 2002, through December 31, 2002, the harvest guideline for the Pacific coast of 118,442 mt was calculated according to the formula in the FMP, of which 39,481 mt was allocated north of Pt. Piedras Blancas, CA, and 78,961 mt was allocated south of Pt. Piedras Blancas, CA, according to the allocation procedure in the FMP. The procedure was adopted to prevent any segment of the fishing industry from gaining an unfair harvesting advantage due to the regional availability of sardine as it migrates along the U.S. West coast. On October 1 of each year, the remaining harvest guideline north and south of Pt. Piedras Blancas, CA, is totaled and divided equally between the two areas. Fishermen will be notified of the reallocation by marine radio and/or by NMFS hotline.

As of August 26, 2002, 32,002 mt of the 39,481–mt allocation north of Pt. Piedras Blancas, CA, had been landed. The harvest rate indicates that 39,481 mt will be reached on September 13, 2002, which requires that the fishery north of Pt. Piedras Blancas, CA, be closed until calculations can be completed on the harvest guideline remaining so that reallocation can occur on or about October 1, 2002. Permit holders were notified of this closure via letters mailed September 6, 2002, and via the Southwest Region website at http://caldera.sero.nmfs.gov. For the reasons stated here and in accordance with the FMP and its implementing regulations at 50 CFR 660.508, the fishery for Pacific sardine north of Pt. Piedras Blancas, CA, will be closed at 0001 hrs September 14, 2002, through December 31, 2002, or until the harvest guideline is reallocated by notice in the **Federal Register** except that up to 45 percent by weight of Pacific mackerel, northern anchovy, jack mackerel, or market squid may consist of Pacific sardine.

Classification

This action is required by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

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

Dated: September 13, 2002.

John H. Dunnigan,

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

[FR Doc. 02–23739 Filed 9–13–02; 3:52 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 181
Wednesday, September 18, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–33–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Limited BN–2A and BN2A Mk. III Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 97–14–01, which currently applies to all Pilatus Britten-Norman (Pilatus Britten-Norman) Limited BN–2A and BN2A Mk. III series airplanes. AD 97–14–01 requires repetitively inspecting the left-hand rudder bar assembly for cracks, measuring the slider tube unit wall thickness, and modifying the rudder bar assembly by installing a slider tube unit of improved design as a terminating action for the repetitive inspections. AD 97–14–01 resulted from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. Reports of cracks being found on the right-hand rudder bar assembly and the inadvertent omission of requiring inspection of the rudder pedal beams prompted this action. This proposed AD would retain the requirements of AD 97–14–01 and require inspections of the right-hand rudder bar assembly and each rudder pedal beam. The actions specified by the proposed AD are intended to prevent failure of the pilot's and co-pilot's rudder bar assemblies, which could result in loss of control of the airplane during landing operations.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 25, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–33–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–33–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from B–N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

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

Are There Any Specific Portions of This Proposed AD I Should Pay Attention To?

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

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–33–AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has FAA Taken Any Action to This Point?

Reports of failure of the pilot's rudder bar caused FAA to issue AD 97–14–01 on all Pilatus Britten-Norman BN–2A and BN2A Mk. III series airplanes. Fractures of the central pillar/slider tube adjacent to the welded transverse lugs caused the pilot's rudder bar to fail. AD 97–14–01, Amendment 39–10058 (62 FR 35670, July 2, 1997), currently requires the following:

—Repetitively inspecting the left-hand rudder bar assembly for cracks;

—Measuring the slider tube unit wall thickness; and

—Modifying the rudder bar assembly by installing a slider tube unit of improved design as a terminating action for the repetitive inspections.

What Has Happened Since AD 97–14–01 To Initiate This Action?

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA of the need to change AD 97–14–01. The CAA reports that fractures in the central pillar/slider tube adjacent to the welded transverse lugs have been found on the co-pilot's (or dual) rudder bar assembly. These reports prompted a need to require inspections of the right-hand rudder bar assembly in addition to the left-hand rudder bar assembly. We also realized we inadvertently omitted from AD 97–14–01 repetitive inspections of the rudder pedal beam as specified in Britten-Norman Service Bulletin No. BN–2/SB. 56, Issue 2, dated February 13, 1978.

Is There Service Information That Applies to This Subject?

B–N Group Ltd. has issued Service Bulletin Number SB 111, Issue 2, dated April 1, 2002.

What Are the Provisions of This Service Bulletin?

The service bulletin includes procedures for:

—Repetitively inspecting the left-hand and right-hand rudder bar assembly for cracks;

—Measuring the slider tube unit wall thickness; and

—Modifying the rudder bar assembly by installing a slider tube unit of improved design as terminating action for the repetitive inspections.

What Action Did the CAA Take?

The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA classifying a service bulletin as mandatory is the same in the United Kingdom as the FAA issuing an AD in the United States.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

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

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

What Has FAA Decided?

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

—The unsafe condition referenced in this document exists or could develop on other Pilatus Britten-Norman BN–2A and BN2A Mk. III series airplanes of the same type design that are on the U.S. registry;

—The actions of AD 97–14–01 should be retained, and the right-hand (co-pilot's) rudder bar assembly and the rudder pedal beams should be included in the inspection requirements; and

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

What Would the Proposed AD Require?

This proposed AD would supersede AD 97–14–01 with a new AD that would retain the actions of AD 97–14–01 and require inspections of the right-hand (co-pilot's) rudder bar assembly and the rudder pedal beams.

Cost Impact

How Many Airplanes Would the Proposed AD Impact?

We estimate that this proposed AD affects 113 airplanes in the U.S. registry.

What Would Be the Cost Impact of the Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 = $360	No parts required	$360.	$360 × 113 = $40,680

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
10 workhours × $60 = $600	$1,300	$600 + $1,300 = $1,900

Compliance Time of This Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD is based on number of landings rather than hours time-in-service (TIS).

Why Is the Compliance Time Presented in Landings Instead of Hours Time-in-Service?

The reason for this type of compliance is that the area that is showing fatigue is the pilot's and co-pilot's rudder bar assemblies and pillar/slider tube unit. This area of the airplane is used during the landing operation.

Furthermore, the stress and fatigue is greater in the thinner gauged metal slider tube unit upon landing. We have determined to use the number of landings as the compliance time for this proposed AD.

Since airplane operators are not required to keep track of landings, we will provide a method of calculating hours TIS into landings.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 97–14–01, Amendment 39–10058 (62 FR 35670, July 2, 1997), and by adding a new AD to read as follows:

Pilatus Britten-Norman Limited: Docket No. 2002–CE–33–AD; Supersedes AD 97–14–01, Amendment 39–10058

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models, all serial numbers, that are certificated in any category:

Models

BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN2A MK. III, BN2A MK. III–2, and BN2A MK. III–3

(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 failure of the pilot's and co-pilot's rudder bar assemblies, which could result in loss of control of the airplane during landing operations.

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

(1) *Right-hand and left-hand slider tube and vertical pillar of the rudder bar.* Within 500 landings after the last inspection required by AD 97–14–01 or the next 100 landings after the effective date of this AD, whichever occurs later, inspect (visually and using a dye penetrant method) the left-hand and right-hand slider tube and vertical pillar of the rudder bar unit for cracks and measure the slider tube wall to determine thickness. Accomplish this inspection and follow-up actions below in accordance with the instructions specified in B–N Group Ltd. Service Bulletin Number SB 111, Issue 2, dated April 1, 2002 (Part of this accomplishment is the incorporation of Britten-Norman Service Bulletin No. BN–2/SB. 56, Issue 2, dated February 13, 1978; and Britten-Norman Service Bulletin No. BN–2/SB. 111, Issue 1, dated October 25, 1977.):

If	Then	When
(i) No cracks are found during the inspection required in paragraph (d)(1) of this AD and the slider tube wall thickness is 0.056-inch (17 s.w.g.).	Repetitively inspect the left-hand and right-hand slider tub and vertical pillar of the rudder bar unit and install Modification NB/M/948, part number (P/N) NB–45–A1–2975 or FAA-approved equivalent part number, on the left-hand and right-hand slider tube and vertical pillar of the rudder bar unit. When this modification is incorporated, the repetitive inspections in that area may be terminated.	Repetitively inspect at intervals not to exceed 500 landings after the initial inspection required in paragraph (d)(1) of this AD. Incorporate modification upon the accumulation of 5,000 landings after August 18, 1997 (the effective date of AD 97–14–01) or within the next 500 landings after the effective date of this AD, whichever occurs later (unless any crack(s) is/are found during an inspection).
(ii) No cracks are found during inspection required in paragraph (d)(1) of this AD and the slider tube wall thickness is 0.036-inch (20 s.w.g.).	Repetitively inspect the left-hand and right-hand slider tube and vertical pillar of the rudder bar unit inspection and install Modification NB/M/948, part number (P/N) NB–45–A1–2975 or FAA-approved equivalent part number, on the left-hand and right-hand slider tube and vertical pillar of the rudder bar unit. When this modification is incorporated, the repetitive inspections in that area may be terminated.	Repetitively inspect at intervals not to exceed 250 landings after the initial inspection. Incorporate the modification upon the accumulation of 2,500 landings after August 18, 1997 (the effective date of AD 97–14–01) or within the next 250 landings after the effective date of this AD, whichever occurs later (unless any crack(s) is/are found during an inspection).
(iii) if any crack(s) is/are found during any inspection on the left-hand or right-hand slider tube and vertical pillar of the rudder bar unit.	Install Modification NB/M/948, P/N NB–45–A1–2975 or FAA-approved equivalent part number, on the cracked slider tube and vertical pillar of the rudder bar unit. When this modification is incorporated, the repetitive inspections in that area may be terminated.	Prior to further flight after the inspection where the crack(s) is/are found.
(iv) Only install rudder bar assemblies that incorporate Modification NB/M/948.	As of the effective date of this AD	Not applicable

(2) *Rudder pedal beams.* Accomplish the following on the rudder pedal beams:

Action	Compliance	Procedures
(i) Inspect (visually and using a dye penetrant inspection method) each rudder pedal beam for cracks and replace any cracked beam with a P/N NB–45–C–2153 (Post Mod No. BB/M/341) rudder pedal beam.	Inspect within the next 100 landings after the effective date of this AD and thereafter at intervals not to exceed 500 landings. Replace prior to further flight after the inspection where any crack(s) is/are found. Continue with repetitive inspection intervals.	In accordance with Britten-Norman Service Bulletin No. BN–2/SB. 56, Issue 2, dated February 13, 1978.
(ii) Only install P/N NB–45–C–2153 (Post Mod No. BB/M/341) rudder pedal beams.	As of the effective date of this AD	Not Applicable.

Note 1: If operators have not recorded the number of landings, the landings can be calculated by multiplying 3 landings per 1 hour TIS.

(e) *Can I comply with this AD in any other way?* (1) 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 Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

(2) Alternative methods of compliance approved in accordance with AD 97–14–01, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 29–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from B-N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 97–14–01, Amendment 39–10058.

Note 3: The subject of this AD is addressed in B-N Group Ltd. Service Bulletin Number SB 111, Issue 2, dated April 1, 2002. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

Issued in Kansas City, Missouri, on September 11, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–23653 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–35–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Limited BN–2 and BN2A Mk. III Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Pilatus Britten-Norman (Pilatus Britten-Norman) Limited BN–2 and BN2A Mk. III series airplanes. This proposed AD would require you to inspect the universal joints on the pilot's and co-pilot's control column to determine the diameter of the shaft. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this proposed AD are intended to correct the installation of universal joints that have the wrong-sized shaft, which could result in failure of the pilot's and/or co-pilot's control column. Such failure could lead to loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 24, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–35–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–35–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from B-N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

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

Are There Any Specific Portions of This Proposed AD I Should Pay Attention To?

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

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–35–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may exist on all Pilatus Britten-Norman BN–2 and BN2A Mk. III series airplanes. The CAA reports that, during maintenance on one of the affected airplanes, an undersized universal joint was found. This installation of undersized universal

joints are the result of a quality control problem.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not corrected, could cause failure of the pilot's and/or co-pilot's control column. Such failure could result in loss of control of the airplane.

Is There Service Information That Applies To This Subject?

Britten-Norman has issued B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002.

What Are the Provisions of This Service Information?

The service bulletin includes procedures for inspecting the universal joints on the pilot's and co-pilot's control column to determine the diameter of the shaft and replacing any universal joint that is the wrong size.

What Action Did the CAA Take?

The CAA classified this service bulletin as mandatory and issued British AD Number 004–05–2002, dated May 30, 2002, in order to ensure the continued airworthiness of these airplanes in the United Kingdom.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

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

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

What Has FAA Decided?

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

—The unsafe condition referenced in this document exists or could develop on other Pilatus Britten-Norman BN–2 and BN2A Mk. III series airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

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

What Would This Proposed AD Require?

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

What Are the Differences Between This Proposed AD, the Service Information, and the CAA AD?

The CAA AD and the service information requires inspection and, if necessary, replacement of any universal joint that is not the correct size within the next 10 hours time-in-service (TIS) after the effective date of the AD. We propose a requirement that you inspect and, if necessary, replace within 30 days after the effective date of this proposed AD. We do not have justification to require this action within the next 10 hours TIS. We use compliance times such as this when we have identified an urgent safety of flight situation. We believe that 30 days will give the owners or operators of the affected airplanes enough time to have the proposed actions accomplished without compromising the safety of the airplanes.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 135 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost per universal joint	Parts cost	Total cost per universal joint	Total cost on U.S. operators
1 workhour × $60 = $60 (3 universal joints per airplane).	No parts required	$60 ($60 × 3 universal joints per airplane = $180).	$180 × 135 = $24,300

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost per universal joint	Parts cost	Total cost per universal joint
2 workhours × $60 = $120	$2,000 per universal joint	$120 + $2,000 = $2,120

Compliance Time of This Proposed AD

What Would Be the Compliance Time of This Proposed AD?

The compliance time of this proposed AD is ''within the next 30 days after the effective date of this AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

This unsafe condition is not a result of the number of times the airplane is operated. The chance of this situation occurring is the same for an airplane with 10 hours time-in-service (TIS) as it would be for an airplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pilatus Britten-Norman Limited: Docket No. 2002–CE–35–AD

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models, all serial numbers, that are certificated in any category:

Models

BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, BN–2T–4R, BN2A MK. III, BN2A MK. III–2, and BN2A MK. III–3.

(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 correct the installation of universal joints that have the wrong-sized shaft, which could result in failure of the pilot's and/or co-pilot's control column. Such failure could lead to loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Inspect all universal joints on the pilot's and co-pilot's control column to determine the diameter of the shaft. (i) If the universal joint diameter is 1.154 to 1.155 inches, re-install into the airplane; and (ii) If the universal joint diameter is not 1.154 to 1.155 inches in diameter, replace with a new universal joint that has a diameter of 1.154 to 1.155 inches.	Inspect within the next 30 days after the effective date of this AD. Replace prior to further flight after the inspection.	In accordance with B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002.
(2) Do not install any universal joint that is not 1.154 to 1.155 inches in diameter.	As of the effective date of this AD	In accordance with B–N Group Ltd. Service Bulletin Number SB 284, Issue 1, dated May 9, 2002.

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from B–N Group Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in British AD Number 004–05–2002, dated May 30, 2002.

Issued in Kansas City, Missouri, on September 10, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–23654 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 16

[Docket No. RM02–16–000]

Hydroelectric License Regulations under the Federal Power Act; Notice Requesting Comments and Establishing Public Forums and Procedures and Schedule

September 12, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice requesting comments and establishing public forums and procedures and schedule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) staff, in conjunction with the United States Departments of Agriculture, Commerce, and Interior, (jointly, the Federal Agencies), is providing interested entities an opportunity to enter into discussions and make comments and recommendations concerning adoption of a new hydropower licensing process.

The Commission staff and Federal Agencies are also asking for comments on: A proposal for a new licensing process developed by the Interagency Hydropower Committee (IHC), consisting of staff from the Commission and the Federal Agencies (Attachment A), and a proposal for a new licensing process developed by the National Review Group (NRG), a coalition of industry and non-governmental organizations (Attachment B).

The two proposals share several common elements. Both the IHC and NRG proposals are attached to this notice. The NRG proposal was filed on September 10, 2002 in Docket No. AD02–5.

On November 7, 2002, the Commission will lead a public forum at the Commission's headquarters in Washington, DC to discuss issues and proposals associated with establishing a new licensing process. In addition, the Commission staff and the Federal Agencies will co-sponsor public and tribal forums for oral or written comments in locations around the country.

The Commission staff and the Federal Agencies anticipate the Commission will issue a Notice of Proposed Rulemaking proposing new license application rules in February 2003. The comments and recommendations made in response to this notice will form part of the public record of that proceeding. The Commission is not, however, proposing new regulations at this time.

Public and Tribal Forums: The forums to take oral and written comments and recommendations will be held in various locations around the country during October and November 2002, as further discussed in Sections V and VI below.

DATES: Written comments are due on or before December 6, 2002. *See* Section VI.

ADDRESSES: File written comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Comments should reference Docket No. RM02–16–000. Comments may be filed electronically or by paper (an original and eight (8) copies, with an accompanying computer diskette in the prescribed format requested). *See* Section VI.

FOR FURTHER INFORMATION CONTACT:

Federal Energy Regulatory Commission.

Timothy Welch, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8760.

John Clements, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8070.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission staff and Federal Agencies that have statutory responsibilities under the Federal Power Act (FPA) (the Departments of Agriculture, Commerce, and Interior, or Federal Agencies) are inviting comments and recommendations concerning the need for the Commission to establish a new hydropower licensing process.

Comments and recommendations are requested with respect to the need for a new licensing process and regarding new licensing process proposals. This notice explains the background of this issue, and includes a list of questions and information on comment procedures. Two attachments are also included describing new process proposals of the Interagency Hydropower Committee (IHC), composed of staff from the Commission and the Federal Agencies (Attachment A), and the National Review Group (NRG), a coalition of industry and non-governmental organizations (Attachment B).

II. Background

Statutory Framework

Sections 4, 10, 14, 15, and 18 of the Federal Power Act (FPA),[1] as amended by the Electric Consumers Protection Act of 1986 (ECPA),[2] provide the regulatory framework for the licensing of non-federal hydroelectric projects.

Section 10(a)(1)[3] provides that hydropower licenses issued must be best adapted to a comprehensive plan for the affected waterways for all beneficial public uses, and must include provisions for the protection of fish and wildlife and other beneficial public uses, and that the Commission must give fish and wildlife, recreation, and environmental concerns equal consideration with power development. Under Section 4(e),[4] licenses for projects located within federal reservations must also include conditions mandated by the department which manages the reservation; in most cases the Departments of Agriculture or Interior. Under Section 18, licenses must also include fishways if they are prescribed by the Departments of Interior or Commerce.

In addition, Section 401(a)(1) of the Clean Water Act[5] requires a license applicant to obtain from the state in which any project discharge into navigable waters originates, certification that such discharge will comply with applicable water quality standards, or waiver of such certification. Section 401(a)(1) requires state water quality certification conditions to be included in hydropower licenses.

Other Federal statutes may also be applicable to a license application. These include the Endangered Species Act,[6] Coastal Zone Management Act,[7] and National Historic Preservation Act.[8]

Current Licensing Procedures

The Commission staff processes license applications in hearings conducted by notice and comment procedures. Licensing procedures have evolved over time in response to changes in the statutory framework, increased public awareness of the need for increased environmental protection, and as a result of the Commission efforts to make the process more efficient and effective.

Under the existing ''traditional'' process, prior to filing an application, applicants must consult with federal and state resource agencies, affected land managing agencies, Indian tribes, and state water quality agencies and must provide the consulted entities with information describing the proposed project. The applicant must also conduct studies necessary for the Commission staff to make an informed decision on the application. Under the Commission's detailed regulations concerning prefiling consultation and processing of filed applications[9] the formal proceeding before the Commission does not begin until the application is filed. Accordingly, the Commission staff do not generally participate in pre-filing consultation.

After an application is filed, the Federal Agencies with responsibilities under the FPA and other statutes, the states, Indian tribes, and other participants in the licensing process have opportunities to request additional studies and provide comments and recommendations. Federal Agencies with mandatory conditioning authority also provide their conditions. The

[1] 16 U.S.C. 797, 803, 807, 808, and 811. Sections 4 and 10 apply to all licenses. Sections 14 and 15 are specific to the issuance of a new license following the expiration of an initial license.

[2] Pub. L. No. 99–495, 100 Stat. 1243.

[3] 16 U.S.C. 803(a)(1).

[4] 16 U.S.C. 797e.

[5] 33 U.S.C. 1341(a)(1).

[6] 16 U.S.C. 1531–1543.

[7] 16 U.S.C. 1451–1465.

[8] 16 U.S.C. 470–470w–6.

[9] *See* 18 CFR Parts 4 and 16.

Commission staff may also ask for additional information that it needs for its environmental analysis. All of this information is incorporated into the Commission staff's environmental review under the National Environmental Policy Act (NEPA).[10]

The Commission's regulations also provide for an alternative licensing process (ALP) which combines the pre-filing consultation process under the FPA with the environmental review process under NEPA.[11] Under this process, the parties work collaboratively prior to the filing of the application to develop the application and a preliminary draft NEPA document, and generally anticipate efforts to conclude a settlement agreement. The Commission staff also participate to a greater extent than under the traditional process.

Reform Efforts

There is widespread agreement that additional improvements are needed to further the goals of reducing the cost and time of licensing without sacrificing environmental protection and the fulfillment of other statutory responsibilities. The President's National Energy Policy report included recommendations for hydropower reform to make the licensing process more clear and efficient, while preserving environmental goals. The Commission, the Federal Agencies, and hydropower program stakeholders are engaged in many activities to achieve this goal.

The Commission staff's ongoing efforts include an Outreach Program in which interested persons meet with members of the licensing staff to learn about the licensing process and related Commission laws and regulations; various interagency training activities; encouragement of settlements through the use of Alternative Dispute Resolution, and issuance of guidance documents.[12] In May 2001, the Commission staff prepared a comprehensive report on hydro licensing, including recommendations designed to reduce the time and cost of licensing.[13] The Commission also held in December 2001, a Hydroelectric Licensing Status Workshop to identify and focus attention on long-pending license applications and find ways to bring these cases to closure.[14] The Commission staff also held regional workshops with states on how better to integrate Commission licensing processes with the states' Clean Water Act responsibilities.

Federal agencies have also worked cooperatively on a number of efforts to improve the licensing process. For example, the Commission staff, the Departments of Interior, Commerce, Agriculture, and Energy, the Council on Environmental Quality, and the Environmental Protection Agency formed an Interagency Task Force to Improve Hydroelectric Licensing Processes (ITF). The ITF's efforts resulted in a series of commitments and administrative actions intended to make the licensing process more efficient, effective, and timely.[15]

More recently, in July of 2001, senior managers from the Commission staff and other Federal agencies formed the IHC to build on the commitments developed by the ITF and to develop additional procedural modifications that would further reduce the process time and cost of licensing while maintaining environmental protections. The IHC developed a proposal for an integrated licensing process. A detailed description of the IHC proposal, which has not previously been made public, is attached to this notice (Attachment A).

Another integrated licensing process proposal has also been developed and circulated for comment by the NRG, a multi-stakeholder forum consisting of representatives from industry and non-governmental organizations. A detailed description of the NRG proposal is also attached to this notice (Attachment B).

A common theme that underlies all of the efforts described above is the need to reduce the time and the cost of the licensing process, improve the quality of decision-making, and ensure early resolution of disputes. One reform concept that shows particular promise is a licensing process that integrates an applicant's prefiling consultation with resource agencies, Indian tribes, and the public with the Commission staff's NEPA scoping (integrated process). Such an approach could differ from the ALP in several respects, such as ensuring the Commission staff involvement at all stages, establishing deadlines for all participants, providing a more effective vehicle for study dispute resolution than currently exists, and better integrating the Commission staff actions with the actions of other federal agencies with statutory roles under the FPA.

III. Request for Comments

The Commission staff and the Federal Agencies request comments on the need for a new licensing process.[16] In particular, the Commission staff and the Federal Agencies request that commenters address the following questions, and provide any additional comments and recommendations concerning the need for and appropriate structure and content of new licensing procedures. Commenters are strongly urged to make their responses as specific as possible and to offer tangible solutions to any identified problems so as to maximize their usefulness. Commenters are also requested to provide specific responses to these questions in relation to the IHC proposal, the NRG proposal, and any other proposals, and to clearly identify the question(s) to which they are responding and the specific proposal, if any, they are addressing.

1. *Need for New Licensing Process:* (a) Is there a need for a new licensing process? (b) If so, what key issues should a new process address, and how might a new process be structured to resolve those key issues?

2. *Integrated Process:* (a) Should the Commission adopt an integrated process as referenced above in Section II? (b) How might an integrated process be structured to save time and be more efficient? (c) Are there issues unique to the processing of original license applications or new license applications that need to be addressed in an integrated process? If so, what are they and how should they be addressed? (d) Would an integrated process improve the development and timing of mandatory conditions?

3. *Settlements:* (a) Should a new licensing process include specific provisions to accommodate settlement negotiations? (b) If so, what might those provisions include?

4. *Information Development (Studies):* (a) What licensing process changes, if any, are needed to ensure development

[10] 42 U.S.C. 4321, *et seq.*

[11] 18 CFR 4.34(i).

[12] Staff guidance documents include the Licensing Handbook, Environmental Analysis preparation, and ALP guidelines. All of these are posted on the Commission's Web site (http://www.ferc.gov/hydro).

[13] *Report to Congress on Hydroelectric Licensing Policies, Procedures, and Regulations—Comprehensive Review and Recommendations Pursuant to Section 603 of the Energy Act of 2000*, Federal Energy Regulatory Commission, May 2001 (Section 603 Report). The report can viewed at www.ferc.gov/hydro/docs/section603.htm.

[14] The Commission staff established Docket No. AD02–05 for the workshop proceeding. A number of entities have made filings in that proceeding with recommendations for improvements to the licensing process.

[15] Reports issued by the ITF, which consists of the Federal Agencies that also participated in the IHC, have been made public and are posted on the Commission's Web site on the hydro page. *See* www.ferc.gov/hydro/docs/interagency.htm.

[16] The U.S. Environmental Protection Agency participated in the IHC deliberations and is also expected to participate in the rulemaking proceeding.

of information and studies in a timely and cost-effective manner? (b) Do elements of the IHC and/or NRG proposals adequately address this issue?

5. *Study Dispute Resolution:* (a) Do the existing Commission regulations provide an adequate process for resolving study disputes? (b) Do elements of the IHC and/or NRG proposals adequately address this issue?

6. *Time Periods:* Do the specific time periods between steps in the IHC and/or NRG proposals appear to be reasonable?

7. *State Processes:* How might a new licensing process better accommodate the State certification process pursuant to Section 401 of the Clean Water Act and/or a consistency determination under the Coastal Zone Management Act?

8. *Tribal Roles and Responsibilities:* How best can a new licensing process accommodate the authorities, roles and concerns of Indian tribes?

9. *Optional Processes:* If the Commission adopts a new licensing process, should it also retain the traditional and/or ALP processes?

IV. Process and Schedule for Rulemaking

The Commission staff and Federal Agencies anticipate a future Commission rulemaking proceeding proposing to establish a new licensing process. The comments and recommendations received in response to this notice will form part of the record of that proceeding. A Notice of Proposed Rulemaking (NOPR) is tentatively scheduled for February 2003. The NOPR would be followed by an opportunity for further comments and technical conferences in the Spring of 2003. A final rule would be issued in the fall. It is further anticipated that the Federal Agencies with statutory responsibilities under the FPA will work together with the Commission staff and others to develop draft and final rules. The Commission, however, is the sole decisional authority with respect to any draft or final rule.

V. Public and Tribal Forums

On November 7, 2002, the Commission will lead a public forum at the Commission's headquarters in Washington, DC to discuss issues and proposals associated with establishing a new licensing process. In addition, the Commission staff and the Federal Agencies will co-sponsor public and tribal forums for oral or written comments in the cities and on the dates established in the following table.[17] Specific details regarding meeting structure and procedures for providing oral comments with respect to each forum will be posted on the Commission's web site.

Location	Date/Time
Milwaukee, Wisconsin, Courtyard Milwaukee Downtown, 300 W. Michigan St. 414–291–4122 ...	Public: October 16, 2002, 9 am–4 pm. Tribes: October 17, 2002, 9 am–4pm.
Atlanta, Georgia, Marriot Century Center, 2000 Century Boulevard, 404–325–0000	Tribes: October 23, 2002, 9 am–4 pm. Public: October 24, 2002, 9 am—4pm.
Commission-Sponsored Public Forum, Commission Meeting Room, Commission Headquarters, 888 First Street, NE, Washington, DC.	November 7, 2002, 9 am–4 pm.
Bedford, New Hampshire, Wayfarer Inn, 121 S. River Road, 603–622–3766	Tribes: November 13, 2002, 9 am–4 pm. Public: November 14, 2002, 9 am–4pm.
Sacramento, California, Sheraton Grand Sacramento, 1230 J Street, 916–341–3600	Public: November 19, 2002, 9 am–4 pm. Tribes: November 20, 2002, 9 am–4pm.
Tacoma, Washington, Sheraton Tacoma, 1320 Broadway Plaza, 253–572–3200	Tribes: November 21, 2002, 9 am–4 pm. Public: November 22, 2002, 9 am–4pm.

VI. Public Comment Procedures

The Commission staff and the Federal Agencies invite all interested persons to submit comments in response to this notice and attend the public forums.

Comments may be filed by paper or electronically via the Internet and must be received by the Commission by December 6, 2002. Electronic filing is strongly encouraged. Those filing electronically do not need to make a paper filing. For paper filings, an original and 8 copies of such comments (with an accompanying computer diskette in the prescribed format requested) should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 and should refer to Docket No. RM02–16–000.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's web site at www.ferc.gov and click on ''e-Filing,'' then follow the instructions on each screen. First time users will have to establish a user name and password. The Commission staff will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments.

User assistance for electronic filing is available at 202–502–8258 or by e-mail to *efiling@ferc.gov.* Comments should not be submitted to the e-mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through the Commission's Homepage using the FERRIS link. User assistance for FERRIS is available at 202–502–8222, or by e-mail to *public.referenceroom@ferc.gov.*

[17] The tribal forums are intended to address tribal issues; however, anyone may attend either forum.

VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission staff provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (http://www.ferc.gov) and in the Commission's Public Reference Room during regular business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From the Commission's Home Page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for FERRIS and the Commission's website during regular business hours from our Help line at (202) 502–8222 or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Please e-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects

18 CFR Part 4

Licenses, Permits, Exemptions, and Determination of Project Costs.

18 CFR Part 16

Procedures Relating to Takeover and Relicensing of Licensed Projects.

Magalie R. Salas,

Secretary.

Attachment A

Interagency Hydropower Committee Proposal for an Integrated Licensing Process

1. Introduction

Hydropower projects licensed by the Federal Energy Regulatory Commission (Commission) produce over five percent of all electric power generated in the United States, making them an important part of the nation's energy mix. Pursuant to Part I of the Federal Power Act of 1935 (FPA),[18] as amended by the Electric Consumers Protection Act of 1986 (ECPA),[19] the Commission is responsible for determining whether and under what conditions to issue licenses for the construction, maintenance and operation of non-federal hydropower projects. The Departments of Agriculture, Commerce, and Interior (hereafter ''federal resource agencies'') are responsible for providing conditions and prescriptions (hereafter ''conditions''), and recommendations to protect and enhance natural, cultural, recreational and tribal trust resources, including fish and wildlife, and to ensure that hydropower projects on federal lands are consistent with the management objectives for those lands.

Streamlining the licensing process while continuing to find public interest solutions that balance power generation, natural and cultural resource protection, recreation, irrigation, flood control, and other public purposes is essential to ensuring the viability of this energy source. The Commission and the federal resource agencies recognize the need to exercise their respective authorities in a manner that best serves the public interest and each supports measures to improve coordination of their statutory responsibilities.

Accordingly, last year, the Commission staff, the Departments of Agriculture, Commerce and Interior, and the Environmental Protection Agency formed a staff-level committee, the Interagency Hydropower Committee (IHC), to assess procedures that currently govern the hydropower licensing process.[20] The IHC recognizes that improved coordination will help to eliminate duplication and conflicts, expedite implementation of agreed upon measures, and reduce the overall time and cost of the licensing process while ensuring the development and implementation of necessary environmental protections. To help achieve these objectives, the IHC has developed a proposal for an integrated licensing process.

The proposal is intended to enable the early identification of issues and objectives, reduce duplication of procedures and analyses, improve environmental review and documentation, coordinate discretionary authorities, and expedite post-application procedures. The federal parties believe the proposal will help stimulate the necessary public comment and input needed to produce a new licensing process that can be supported by the Commission, license applicants, state and federal agencies, Indian tribes, non-governmental organizations (NGOs), and other stakeholders.

2. Benefits of the Proposal

The IHC proposal addresses aspects of the existing license process that have: (1) Caused lengthy delays in processing license applications, (2) interfered with the development of a single consistent record from which each federal agency with statutory and trust responsibilities can base its decisions, (3) affected the quality and timeliness of information needed by the agencies to carry out their responsibilities, and (4) resulted in litigation on individual licensing actions. Addressing these problems should streamline the licensing process, reduce costs, and add certainty and predictability for the license applicant and all stakeholders. Specifically, the proposal addresses the issues listed in sections 2.1 through 2.6.

2.1 Eliminates Duplication in the National Environmental Policy Act (NEPA) Scoping and Information Development Processes

The Commission's traditional and alternative licensing processes both require that the license applicant identify issues associated with the project and propose measures to address those issues before a license application is filed. The public, federal and state agencies, NGOs, and Indian tribes currently assist the license applicant to varying degrees in identifying and analyzing resource issues associated with the project during this pre-application period. However, the Commission staff generally does not engage in formal NEPA scoping until after the license application is filed. At that time the Commission staff scopes the issues, accepts additional study and information requests by stakeholders, and develops its own analysis of the potential project effects.

The proposal combines the license applicant's pre-filing consultation with the Commission staff's NEPA scoping process to improve efficiency, reduce duplication, and expedite the development of necessary information to meet the needs of all parties. By initiating the formal proceeding early in the pre-application stage, scoping would occur one time, and agreement could be reached on study and information needs by the Commission staff and the resource agencies and Indian tribes before the studies are implemented.

The proposal further facilitates the Commission staff's scoping process by replacing the applicant's existing Initial Consultation Document with a ''Pre-Scoping Document,'' developed in the same format as the Commission staff's NEPA scoping document. The Pre-Scoping Document would identify information gaps and include project information, documentation of previous consultations, a description of project effects and issues, and an initial list of potential stakeholders. The Commission staff, federal resource agencies, and stakeholders would comment on the Pre-Scoping Document immediately following the filing of the license applicant's Notice of Intent to seek a new license. The applicant would then file a revised Pre-Scoping Document with the Commission in light of the comments it received. The Commission staff would use the applicant's Pre-Scoping Document to develop its Scoping Document 1.

2.2 Resolves Disagreements Early in the Licensing Process and Ensures an Adequate Evidentiary Record

The Commission and the federal resource agencies with conditioning authority are required to support their decisions with substantial evidence. Federal resource agencies may find that studies required by the Commission staff are not sufficient to support the substantial evidence requirement with respect to the exercise of their own conditioning authorities. Study disputes between resource agencies and applicants are often not resolved during pre-filing consultation. This may lead to delays in the filing of conditions and to requests for rehearing of licensing orders, further delaying the ultimate conclusion of the proceeding.

[18] 16 U.S.C. 797, 803, 807, and 808.

[19] Pub. L. 99–495, 100 Stat. 1243.

[20] The IHC also received assistance from the Council on Environmental Quality and the Advisory Council on Historic Preservation.

The IHC proposal includes a dispute resolution process that ensures study disputes will be resolved pursuant to clear criteria and that studies will be conducted without unnecessary delay. The intent of this process is to resolve issues before costly studies are implemented, to help ensure that the licensing process continues on schedule, and to help ensure that all agencies with statutory and trust responsibilities have a record adequate to support their decisions.

2.3 Includes Time Frames for All Participants

The existing licensing processes lack predictable time frames. This affects the ability of all participants to efficiently utilize their time and resources.

The proposal provides specific time frames for each step of the process, including actions by the Commission staff, applicants, Indian tribes, federal resource agencies, and other stakeholders. The proposal, with its associated time frames, is expected to significantly reduce the time required to conclude a licensing proceeding.

2.4 Facilitates Earlier Stakeholder Involvement

The traditional licensing process emphasizes pre-filing consultation with resource agencies and Indian tribes, but provides limited opportunity for involvement by other potential stakeholders. As a result, public involvement in the licensing process is often delayed until after an application is filed. This can result in new issues being raised after an application is filed, as well as additional study requests, thereby lengthening the process.

The proposal would address this problem for new licenses by requiring an existing licensee to broadly distribute a Pre-Scoping Document to resource agencies, Indian tribes, and other potential stakeholders at the time it files its Notice of Intent to seek a new license, 5 to 5½ years before license expiration. The Commission staff's public notice of the applicant's decision to seek a new license would invite comment by all concerned entities on the Pre-Scoping Document.

2.5 Enables Concurrent Filings of Federal Resource Agency Conditions

Under the existing licensing processes, the Departments of Commerce and Interior file their modified conditions after the close of the Commission staff's draft NEPA comment period and the Department of Agriculture files its final conditions after the final NEPA document has been completed. Non-concurrent filings by the federal resource agencies could result in conflicting conditions and may delay the licensing process.

The proposal provides for concurrent filing of agency conditions prior to the completion of the Final NEPA document, which minimizes the potential for conflicting conditions, and helps to avoid the need for additional post-NEPA analysis.

2.6 Ensures the Development of Adequate Information in Support of Any Settlement Discussions

The Commission's policy is to support settlement agreements that are consistent with the law and Commission policies. The federal resource agencies also support efforts to achieve settlement during the licensing process. Settlement agreements are more likely to result in the early implementation of environmental measures, continued cooperation among the stakeholders, and a license that is acceptable to all participants.

The proposal establishes a process by which licensing issues are scoped and studies are agreed to within a time frame that will allow the developed information to be used for settlement discussions. This should ensure that agreements reached will be supported by adequate information in the record.

3.0 IHC Proposal

The following discussions outline the specific steps and associated time frames of the IHC proposal. The proposal would provide for an advanced notice of license expiration; initiate the formal Commission proceeding when a license applicant files its Notice of Intent to seek a new license (NOI); allow for early NEPA scoping and timely resolution of study disputes; implement studies to ensure the development of complete information in support of a license application; and provide for the concurrent submission of the federal resource agencies' mandatory conditions.

Sections 3.1 through 3.7 describe the proposal in detail. A step-by-step flowchart is provided at the end of the attachment and is posted on the Commission's website (www.ferc.gov).

3.1 Advance Notice of License Expiration

In order to ensure that as much existing information as possible is available for the Commission staff's scoping efforts, three years prior to the NOI, the Commission staff would notify the licensee of its pending license expiration and would provide a list of basic information needs and resource agency and tribal contacts. The licensee would be encouraged to contact the resource agencies and Indian tribes regarding their upcoming licensing activities.

3.2 Pre-scoping, Initiation of Formal Commission Proceeding

Between 5 and 5½ years before the license expires, the license applicant would file its Notice Of Intent to seek a new license (NOI) with the Commission. In lieu of the Initial Consultation Document required by the existing regulations, the license applicant would distribute a Pre-Scoping Document (PSD) to the Commission and other stakeholders (*e.g.*, state and federal resource agencies, Indian tribes, non-governmental organizations, local communities, and the public). The PSD would include project information, documentation of previous consultations, a description of project effects and issues, and an initial list of potential stakeholders. The license applicant would be encouraged to work with stakeholders and with the Commission staff to determine resource impacts and information needs before issuing its PSD. Within 15 days of the NOI, the Commission staff would initiate the proceeding by issuing public notice of the applicant's NOI and commencing NEPA scoping.

Within 60 days of initiating the formal proceeding, stakeholders and the Commission staff would provide comments on the PSD and have the opportunity to submit study requests to the license applicant. The license applicant would have 45 days to incorporate comments into its PSD (including an explanation of why any comments were not adopted) and to develop and include a detailed study plan (*e.g.*, study proposals, methodologies, progress reports, and schedules) that considers any study requests. The PSD would then be filed, and the Commission staff and the license applicant would coordinate scoping meetings and a site visit.

3.3 Scoping, Development of Final Study Plan

Within 45 days after the license applicant files its PSD, the Commission staff would issue its Scoping Document 1 (SD–1) based on the PSD provided by the applicant and notice the scoping meeting(s). The Commission staff would include the license applicant's study plan as an appendix to SD–1. The scoping meetings would be an opportunity for discussion of project-related issues including the applicant's study plan. Within 30 days of the scoping meetings, the license applicant and stakeholders would file comments on SD–1 with the Commission, and the Commission staff and stakeholders would provide comments regarding the study plan to the license applicant. The license applicant would then have an additional 30 days to revise its study plan as necessary to reflect stakeholder comments and file it with the Commission.

If a federal resource agency or Indian tribe disagreed with the Commission staff's initial decision on the applicant's revised study plan, it would request the Commission staff to initiate the study dispute resolution process. The purpose of the study dispute resolution process would be to resolve disagreements between the resource agencies, Indian tribes, and the Commission staff regarding the need for and technical aspects of a requested study prior to implementation of the study phase of the process. By resolving studies at that time, additional information and study requests after the application has been filed should be rare.

If there were no disagreements on the study plan, the Commission staff would complete Scoping Document 2 (SD–2) within 30 days and studies would be implemented according to the final study plan and schedule included in SD–2.

3.4 Study Dispute Resolution Process

The proposed study dispute resolution process would maintain the Commission's ultimate authority to determine which studies were required, based on objective criteria that account for the information needs of the Commission staff and the federal resource agencies with statutory responsibility for formulating recommendations and conditions. The license applicant and all other stakeholders would have the opportunity to provide input that would be considered during the process. The study dispute resolution process would be completed within 60 days from the date that the final study plan was filed with the

Commission and the Commission staff would have an additional 30 days to complete SD–2. See section 4 for a detailed description of the study dispute resolution process.

3.5 Study Period, Development of Draft License Application

Studies included in the final study plan would be implemented according to the schedule in SD–2. The study period would include an ongoing evaluation and review process in which the applicant, the Commission staff, and stakeholders, would ensure that studies were being conducted as described in the study plan and would periodically review the data being collected. This review could result in proposed modifications to the study plan, which would be subject to the study dispute resolution process. It is assumed that in most cases two years would be required to conduct studies.

Following completion of the first year of studies, the license applicant, the Commission staff, and stakeholders would review the data and determine whether modifications to the study plan were warranted based on the initial results. The study dispute resolution process would be utilized to resolve any differences. The second year of studies would then be conducted, and would include the ongoing evaluation and review process.

At the conclusion of the second year of studies, the license applicant, the Commission staff, and stakeholders would meet to determine: (1) If the studies had or would yield information necessary to complete the Commission staff's NEPA document, and (2) if the information collected was sufficient for the federal resource agencies to develop their recommendations and conditions. Continuation or modification of the study plan may be requested and dispute resolution would again be available.

Following the second year of studies, the applicant would file a draft license application with the Commission, even though some final study results may be pending. The environmental section in the draft application would be in a similar format as the environmental analysis section of the Commission staff's NEPA document. Within 60 days, stakeholders would file detailed comments on the draft application, including preliminary input on the appropriate level of NEPA analysis. The Commission staff comments would be filed 30 days after stakeholder comments to ensure that the Commission staff had all necessary information before providing its input.

If additional information were needed, the applicant, the Commission staff, and stakeholders would develop a schedule allowing such information to be obtained prior to the applicant filing its draft application. If sufficient time was not available to develop the information before filing the license application (two years before the current license expired), then the Commission staff, applicant, and stakeholders would develop a time line for providing that information and the Commission staff would issue a revised schedule for its post-application actions. The study dispute resolution process would be available as needed.

3.6 Development of Final License Application

Within 60 days after receiving comments on the draft license application, the applicant would file its final license application (including applicable responses to comments and an application summary) with the Commission. Within 15 days, the Commission staff would issue a notice that the application was filed, which would include a processing schedule.

Following the notice of application filed, the Commission staff would have 45 days to: (1) Determine if the application met the Commission's filing requirements (*i.e.*, to determine if any additional information was needed by the Commission staff to process the license) and (2) to issue a notice accepting the application and requesting interventions, recommendations, and conditions. The notice would also request recommendations on the level of NEPA analysis to be completed [Environmental Analysis (EA) or Environmental Impact Statement (EIS)], and on whether issuance of a draft is necessary should the Commission staff decide to develop an EA. If the application did not meet the Commission staff's needs, it would request additional information.

Stakeholders would have 60 days from the date of the Commission staff's notice to file requests to intervene and to file comments, recommendations, and conditions. If submitting preliminary conditions, the federal resource agencies would also submit a schedule for producing final conditions.

3.7 Post-Filing, NEPA Analysis, License Issuance

The IHC proposal includes separate tracks depending on whether the Commission staff issues a draft NEPA document. Track A anticipates draft and final NEPA documents and Track B anticipates a final NEPA document with comments addressed in the licensing order.

3.7.1 Track A

Within 180 days after requesting comments and interventions, the Commission staff would issue its draft EA or EIS and request comments. Additionally, on behalf of the federal resource agencies, the Commission staff would specifically request comments on agency conditions. The license applicant and stakeholders would have up to 60 days to file comments on the draft NEPA document and on the agencies' preliminary conditions. All comments would also be served on the intervenors. The federal resource agencies would then file their updated conditions within 30 to 60 days after close of the draft NEPA comment period. The Commission staff would issue the final NEPA document within 90 days of receiving the agencies' updated conditions and the draft license order would be provided to the Commission staff within an additional 30 to 90 days.

3.7.2 Track B

Within 90 to 120 days after requesting comments and interventions, the Commission staff would issue its EA. The stakeholders and the applicant would have 30 to 45 days to comment on the EA and on the resource agencies' preliminary conditions. All comments would be filed with the Commission and served on the intervenors. Within 60 to 90 days after receiving comments, the federal resource agencies would file their updated conditions. The Commission staff would prepare a draft order for Commission issuance within 15 to 60 days after receiving the federal resource agencies' updated conditions.

4. Study Dispute Resolution Process

4.1 Background

The purpose of the proposed study dispute resolution process would be to resolve disagreements between the federal resource agencies, Indian tribes, and the Commission staff regarding the need for and technical aspects of a requested study prior to implementation of the study and during the study phase of the process (as necessary). By resolving study disputes early, requests for additional studies and information after the application has been filed with the Commission should be rare.

The proposed study dispute resolution process maintains the Commission's ultimate authority to determine which studies were required, based on objective criteria that account for the information needs of the Commission as final decision-maker, and for the resource agencies with statutory responsibility to formulate recommendations, terms, conditions or prescriptions. The applicant and all other stakeholders would have an opportunity to provide input during the process. The dispute resolution process would be completed within 60 days and the Commission staff would have an additional 30 days to complete SD–2.

4.2 Disputed Issues, Dispute Resolution Team

To facilitate the process, disputes would be limited to two issues: (1) Whether a study was necessary for either the federal agencies, Indian tribes or the Commission staff to develop their recommendations, conditions, prescriptions, or license terms, and (2) whether a specific study methodology was necessary to obtain the information.[21] Each dispute would be measured against predetermined criteria by a dispute resolution team. The team would review the available information and document findings in a report filed with the Commission Secretary, to be forwarded to the Director of the Office of Energy Projects for inclusion into the administrative record. The Commission staff would then consider the findings of the team when making its final determination on studies to be required of the applicant. The entire process would take approximately 60 days. Once the team filed its findings with the Commission and the Commission staff made its decision, the issue would be considered resolved for purposes of completing the final study plan and proceeding with the study implementation phase of the licensing process.

The team approach would help to ensure that the issue was broadly considered and

[21] Studies not in dispute would proceed in accordance with the study plan.

potential compromises were discussed before a final Commission staff decision. The team would include one person from the Commission staff, one person from the federal agency or Indian tribe requesting the study and an agreed-upon neutral party. If the team determined that the study criteria were met based on the information provided, then a finding that the study was needed would be provided to the Commission staff. If the team determined that the criteria were not met based on the information provided, then a finding that the study was not needed would be provided to the Commission staff.

4.3 Study Request Criteria

All study requests subject to dispute resolution under this process would include supporting information sufficient to satisfy the following criteria:

(a) Whether the request describes available project-specific information, and provides a nexus between project operations and effects on the resource to be studied.

(b) Whether the request includes an explanation of the relevant resource management goals of the agencies with jurisdiction over the resource to be studied.

(c) Whether the study objectives are adequately explained in terms of new information to be yielded by the study and its significance relative to the performance of agency roles and responsibilities in connection with the licensing proceeding.

(d) If a study methodology is recommended, whether the methodology (including any preferred data collection and analysis techniques) is consistent with generally accepted practice in the scientific community.

(e) Whether the requester has considered cost and practicality, and recommended a study or study design that would avoid unnecessary costs while still fully achieving the stated study objectives.

(f) If the license applicant has provided a lower cost alternative, whether the requester has considered this alternative, and if not adopted, explained why the lower cost alternative would not be sufficient to achieve the stated study objectives.

4.4 The Commission Staff's Consideration of Findings

Based on the team's findings, the Director of the Office of Energy Projects or the Director's delegate would determine within 30 days whether the requester has adequately justified the need for the study (including any technical aspects in dispute) according to the criteria set forth above. Resource agency goals and objectives would be considered valid if they were relevant to the proceeding, expressly stated or referenced in the study request, and identified by the resource agency with jurisdiction over the resource in question. The decision maker would take into account the team's findings, the views of the parties, the expertise of the resource agencies, and any other relevant information in the administrative record. If the team's findings were adopted, the decision would be issued in writing under delegated authority. If not, the Director of the Office of Energy Projects would be required to render a decision in writing.[22] The decision would be included in SD–2.

5. Other Issues

The IHC emphasizes that its proposal is in an early stage of development. All stakeholders should have substantial opportunity to participate in fully developing any new licensing process. The IHC proposal has been sufficiently developed to ensure that the key steps in the process have been identified, although significant detail has yet to be determined. For example, the IHC is aware of specific issues that have not yet been addressed, including those relating to preparation of the NEPA document, consultation under the Endangered Species Act, and inclusion of recommendations under Section 10(j) of the Federal Power Act. The IHC is also aware that other stakeholders may have additional or alternative ideas for addressing the identified process issues or may have concerns and issues not anticipated by the federal parties while drafting this proposal.

Comments on the IHC proposal should be made according to the instructions described in the Commission staff's accompanying **Federal Register** notice. Any and all comments are solicited, although specific responses to the questions contained in the notice would be helpful.

6. Contact Information

For further information regarding the IHC proposal, representatives of the IHC New Issues Subgroup may be contacted.

Specifically: Kathryn Conant, Office of Habitat Conservation, National Marine Fisheries Service, telephone: (301) 713–2325 (e-mail: *kathryn.conant@noaa.gov*).

Tom DeWitt, Office of Energy Projects, Federal Energy Regulatory Commission, telephone: (202) 502–6070 (e-mail: *thomas.dewitt@ferc.gov*).

Bob Dach, Division of Federal Program Activities, U.S. Fish and Wildlife Service, telephone: (703) 358–2183 (e-mail: *robert_dach@fws.gov*).

David Diamond, Office of Policy Analysis, Department of the Interior, telephone: (202) 219–1136 (e-mail: *david_m_diamond@ios.doi.gov*).

Mona Janopaul, Lands, U.S. Forest Service, telephone: (202) 205–0880 (e-mail: *mjanopaul@fs.fed.us*).

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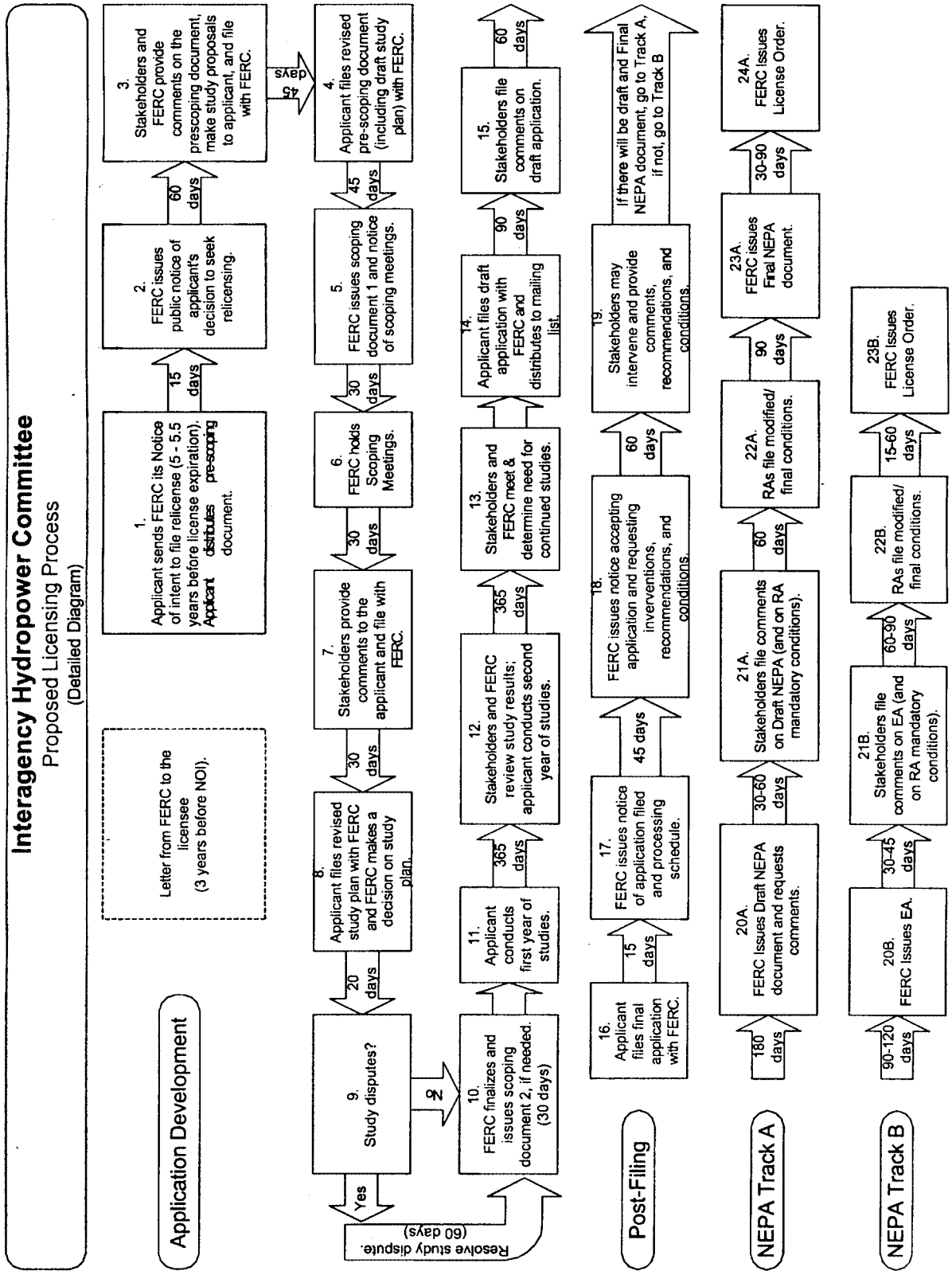
[22] Requests for dispute resolution would be filed within 20 days of the issuance of the revised study plan. The team would convene within 10 more days, and have 30 days to develop and file its findings and recommendation with the Commission. A decision would be rendered within an additional 30 days.



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Attachment B

National Review Group; Summary of Proposal for a Coordinated Environmental Review and Application Development in the Relicensing Process

Introduction

The National Review Group (''NRG'') is a task force of individual representatives from the hydropower industry and conservation organizations who share a common interest in improving the relicensing process for non-federal hydropower projects under the Federal Power Act (''FPA''), Part I. These representatives are listed below. The NRG originally convened in 1998 and published a report on voluntary practices that may be implemented under existing rules to serve this interest. [*See http://www.ferc.gov/hydro/hydro2.htm*]

Since 2000 the NRG has worked to develop a proposal for administrative reforms (including amendments to existing rules) to reduce the time, costs, and complexity of the relicensing process. The Federal Energy Regulatory Commission (''FERC''), the U.S. Departments of Agriculture, Commerce, and Interior, and the U.S. Environmental Protection Agency have participated in a limited fashion to comment on the process.

The NRG now releases the attached proposal for administrative reform. This proposal does not involve a statutory change and, therefore, does not change any agencies' statutory authority or responsibility. The proposal focuses on coordination through the administrative process of license application development and environmental review under the National Environmental Policy Act (''NEPA'') and related laws, and further on resolving disputes related to such review early in the process. While this proposal is written in the context of the relicensing of an existing project, we believe that the fundamental concepts may be applicable to the licensing of a new project.

The attached proposal is stated in conceptual form and language. The NRG has solicited and considered public comments submitted, and based on comments received has revised this proposal to reflect areas where commenters believed the intent of the NRG was not clear. Comments received are summarized in a matrix to be attached to the proposal when submitted to the FERC.

Key Elements

The proposal includes four key reforms of existing rules, including 18 CFR Parts 4 and 16 as administered by FERC. These are:

• Before the start of a relicensing proceeding, a License Applicant may undertake early consultation, to identify issues, share available information, and obtain needed information. Such early disclosure of issues should help a License Applicant develop its application in a manner that meets the informational requirements of all agencies and reduces the potential for additional information requests.

• FERC and Cooperating Agencies will execute general Memoranda of Understanding (''MOU'') and project-specific Memoranda of Agreement (''MOA'') to establish procedures for cooperation, including development of the record, dispute resolution, and decision-making. These documents will provide for the License Applicant's appropriate involvement. The MOU will help to define which agency is generally responsible for assembling information and substantive drafting within an area of expertise under NEPA. The MOA will apply that general construct to a specific licensing proceeding. This procedure is intended to reduce duplicative requirements on the Licensee and provide for maximum cooperation among the agencies and FERC. All agencies will be encouraged to participate as Cooperating Agencies.

• Before publication of the draft NEPA document, FERC and the Cooperating Agencies will use an advisory opinion procedure to identify studies necessary for their respective decisions. They will use a dispute resolution procedure when they disagree on the scope of that advisory opinion. This procedure includes an inter-agency advisory panel, and if necessary, a decision at the Chairman/Secretary level to resolve disputes. Under this approach, the License Applicant gains greater certainty that, if it complies with study requests deemed reasonable at the beginning of the procedure as set forth in the advisory (or revised advisory) opinion, there is a strong presumption that no additional studies will be required by FERC. Other stakeholders also gain certainty, since the procedure will help define the study requirements early in the proceeding and is intended to create an incentive for the License Applicant to implement the study plan as described in the advisory opinion.

• FERC and the Cooperating Agencies will publish a single informational (not decisional) NEPA document. This procedure is intended to eliminate the need for FERC and these other agencies to conduct separate and potentially duplicative or conflicting NEPA reviews and may reduce the average period of time for a relicensing proceeding. While the single NEPA document will be used as the basis for decision-making, FERC will, and each Cooperating Agency may, publish a separate record of decision stating each agency's preferred alternative. This will minimize conflict over the informational NEPA document that contains the scientific and analytic basis for a decision and will allow agency preferences to be represented in separate decisional documents. Conflicts may then be limited to the outcome resulting from the separate decisional documents rather than potentially divergent NEPA records, studies, and background information.

Public Comments and Responses

Several themes emerged from the comments.

• Tribal rights: Commenters expressed concern that this proposal would adversely affect Tribal rights. However, the NRG proposal encourages at least the same if not greater Tribe participation. The NRG recognizes the consultation requirements with Tribes. The proposal encourages early and frequent discussions with important stakeholders like the Tribes so that the full breadth of their interests is addressed. Although not specific addressed in detail, the proposal recognizes that the Tribes may exercise independent regulatory authority in areas such as water quality and cultural resources.

This proposal does not address the issue of Tribal sovereignty, but it does include early consultation with all stakeholders (which includes all persons, entities, etc.), and early issue identification. Including Tribal issues in these early phases will minimize the chances that Tribal issues will be overlooked or that insufficient information will be gathered to adequately address the issues.

• State role: The overlap of state and federal authorities in FERC licensing proceedings can lead to uncoordinated efforts and delay and can be especially acute in water resource management issues, where FERC and federal agencies have broad ranging authority and also the states have broad ranging authority over water quality and quantity.

This proposal for administrative change can retains current federal and state authorities. However, we suggest that the exercise of these authorities can be rationalized so as to make the process more efficient and to encourage better licensing outcomes. While the NRG proposal does not directly address state authorities, integration of the states into the process is a critical next step.

• Public participation: The public must have an opportunity for meaningful participation in the licensing process.

The NRG proposal would not diminish opportunities for public involvement. Although the proposal is not specific as to all points at which the public would be actively involved in the process, there is a clear intent to have substantial opportunities for all stakeholders to participate in the process. In its current state, it does not address the role of collaborative processes, which are often the most effective forums for public participation. We do not believe, however, that collaboration is foreclosed by a consolidated environmental review process.

• Licensee roles and responsibilities: Any process for relicensing a hydro project must provide an appropriate role for the current licensee. As the party responsible for funding and executing the required studies, and implementing any license conditions, licensees must be intimately involved in all phases of the process.

• The NRG proposal actively involves the licensee in information gathering, scoping, study development, proposed licensing alternatives and environmental analysis. However, refining and clarifying the role of the licensee throughout the process will be an important task in the development of a functional and supportable rule.

• Time frames: Many parties believe that, as a matter of principle, relicensing a hydro project should not take as long as it does. However, there is a great deal of work that must be accomplished within the available 5-year window. The desire to move expeditiously must be weighed against the need for adequate study seasons, appropriate consultation and dispute resolution timelines and sufficient time for document preparation. The NRG proposal attempts to balance those considerations.

Some commenters have indicated that they believe the timelines suggested in the NRG

proposal are tight. The time line in the proposal can be evaluated further to determine if it is unrealistic. Other commenters expressed concern that the dispute resolution process could cause substantial delay. If a dispute arises over necessary studies, steps to keep the rest of the process on track and resolve the dispute(s) expeditiously will be in the interests of all participants.

• *Integration of other processes (CWA, ESA):* Not all authorities affecting relicensing arise from the Federal Power Act. Integration of these parallel authorities such as the Clean Water Act, Endangered Species Act, and the National Historic Preservation Act is difficult. Nonetheless, integration of these authorities and their attendant processes is critical to development of a process that minimizes duplication and uses available agency resources wisely.

• *Consideration of additional studies:* The NRG proposal is based on the concept that information be gathered and studies executed once, early in the process of relicensing. However, commenters have pointed out that long-term resource management decisions demand appropriately rigorous development of information. If unusual circumstances require additional studies to be performed, the process should allow this to happen.

• *Role of non-cooperating agencies:* Commenters expressed concern that the proposal addresses the role of non-cooperating agencies in some, but not all, elements. The NRG proposal does not diminish the role of non-cooperating agencies as currently exercised in the FERC process; however, the proposal encourages agencies to accept cooperating agency status to make the process more efficient. To the extent that the role of non-cooperating agencies needs to be more fully developed, that development can occur in the context of the FERC's rulemaking proceeding.

Members of the NRG

Utility and NGO Members:

- American Rivers
- American Whitewater
- Chelan County Public Utility District
- EPRI
- Grant County Public Utility District
- Kearns & West (Facilitator)
- Kleinschmidt & Associates
- Law Offices of GKRSE
- Natural Heritage Institute
- New York Power Authority
- Pacific Gas and Electric
- PacifiCorp
- Portland General Electric
- Reliant Energy
- Southern California Edison
- Southern Company
- Troutman Sanders

Agency Advisors:

- US Department of the Interior/Bureau of Indian Affairs/US Fish and Wildlife Service
- Energy Information Administration
- US Environmental Protection Agency
- Federal Energy Regulatory Commission
- National Marine Fisheries Service/US Department of Commerce
- USDA Forest Service

National Review Group; Detailed Proposal for Coordinated Environmental Review and Application Development in the Relicensing Process

1. Definitions

1.1. ''Cooperating Agency'' means: a federal, interstate, state, local, or tribal agency that cooperates with FERC in the NEPA review in a proceeding.

1.2. ''Tribal agency'' means: a tribal entity which (A) is recognized by the federal government, and (B) performs a governmental function, such as the Tribal Historic Preservation Officer or an agency that has been delegated the authority to develop and administer a water quality standards program, including Clean Water Act section 401 certifications.

1.3. ''License Applicant'' means: an applicant for a license, whether or not the existing licensee.

1.4. ''License Articles'' means: articles adopted by FERC in a license.

1.5. ''Licensee'' means: the existing licensee.

1.6. ''Resource Agencies'' means: a Federal, interstate, State, local, or tribal agency exercising administration over the areas of flood control, navigation, irrigation, recreation, fish and wildlife, water resource management, or cultural or other relevant resources of the area affected by a project.

1.7. ''Stakeholder'' means: a person or entity interested in a project, including an agency, non-governmental or other organization, or individual.

1.8. ''Terms and Conditions'' means: conditions submitted by a Resource Agency for inclusion in the License under any claim of authority, including FPA sections 4(e), 18, 10(a), and 10(j) and Clean Water Act section 401(a).

2. Optional Pre-NOI/Pre-Application Initial Meetings and Consultation

This step provides an informal opportunity to identify available and needed information and begin identification of issues, before the formal licensing proceeding commences on the filing of the Notice of Intent (''NOI'') for a new license.

2.1. Licensee is encouraged to meet with FERC and Resource Agencies before the filing of the NOI, as appropriate, to begin identification of issues and collection of data to compose a record necessary for the licensing proceeding. In any such meeting, each agency will describe relevant existing information, procedures for Licensee's access to it, current expectations for study plans, known and relevant agency goals and objectives, and published plans relevant to the project. Licensee will provide a description of the existing project and supporting information. Licensee and Resource Agencies will attempt to define potential issues that may arise in the study plan or otherwise in the licensing proceeding.

2.2. Licensee is encouraged to informally consult with Stakeholders including FERC using a Project Report or Project Description, which in summary form describes the existing project, environmental information, and Licensee plans for any upgrades and changes. The purpose of such consultation will be to obtain information for the IIP/ICD as described in paragraph 3.

3. Notice of Intent and Initial Information Package/Initial Consultation Document (''IIP/ICD'')

3.1. The FERC proceeding will begin with the filing by the Licensee of the NOI with the FERC.

3.2. IIP/ICD will be issued by the Licensee no less than 5 years and no more than 5.5 years before license expiration for existing licensees and 4.5 years for competitors. Expanded contents (roughly mirroring the current draft application) will include the following:

A. Exhibits A and B, modified Exhibits D and E (sections on existing environment), existing Exhibits F and G, and modified exhibit H;

B. Record of consultations to date, including information developed under paragraph 2 above.

C. Issues identified in any preliminary consultation and a preliminary list of information needed to address those issues, and any other issues identified by the Licensee as relevant;

D. Licensee's opening study proposals including scope, method, and schedule in outline format;

E. List and description of any study requests made to date; and

F. A draft Scoping Document (''SD'') to be in the IIP/ICD (including the Licensee's preferred alternative).

3.3. IIP/ICD will be sent out by the Licensee for a 60-Day comment period to Resource Agencies, FERC, and other Stakeholders.

4. Development of Cooperating Agency Agreements or Relationship

4.1. A general MOU (which provides the framework for subsequent project-specific agreements) will be developed between FERC and each Resource Agency which participates in licensing proceedings on a regular basis. The general MOU will be consistent with and reflect the process laid out here.

4.2. Following the issuance of the IIP/ICD by the Licensee and before FERC issues the Scoping Document (''SD''), FERC will request that each Resource Agency participate as a Cooperating Agency, pursuant to a written agreement specific to that proceeding (''MOA'').

4.3. The MOA in a given proceeding will provide for maximum cooperation consistent with FERC's responsibility as lead agency under NEPA. It will establish procedures for cooperation, including preparation of NEPA documents [*i.e.*, draft and final Environmental Assessment (''EA'')/Environmental Impact Statement (''EIS'')], dispute resolution, and decision-making.

A. As provided in such agreement, such cooperating agency procedures will require time and resources by those involved. Each Cooperating Agency will be responsible for collecting and compiling information in its possession relevant to the NEPA review, and for substantive drafting in the agreed-to area of NEPA drafting responsibility. As a general matter, such responsibility will be roughly proportionate to the Cooperating Agency's

regulatory responsibilities in assessing a given resource impact.

B. As lead agency, FERC will retain the final responsibility for the content of the jointly prepared NEPA documents. FERC and the Cooperating Agencies will attempt to resolve any conflicts regarding an alternative or impact in findings prior to issuance of NEPA documents through the dispute resolution procedure in section 6 hereof. However, if all disputes are not so resolved, the NEPA document will state any unresolved dispute between FERC and a Cooperating Agency regarding an alternative or impact, including the separate findings of each agency, except as limited in this paragraph 4.3.

C. NEPA documents in licensing proceedings will be factual and analytical, not decisional. The EA/EIS (whether draft or final) will include the project description, project alternatives, the impacts (beneficial and adverse, environmental and economic) of such alternatives, and protection, mitigation, and enhancement measures (''PM&E''). Each document will conform to this scope.

D. The EA/EIS will not include a decision on License Articles or Terms and Conditions. Instead, in a given proceeding, FERC will, and each Cooperating Agency (or non-cooperating Resource Agency) may, publish a record of decision separate from the informational final NEPA document which so states that agency's preferred alternative, the basis thereof (which should expressly reference the portions of the final NEPA document described in the above paragraph).

E. To encourage resolution of issues informally and to reduce time should an advisory panel need to be convened pursuant to paragraph 6.3 below, FERC and Cooperating Agencies, and, if possible, involved Resource Agencies will attempt to identify at the onset of the licensing proceeding senior policy staff in each respective organization. These designated staff members will be available to advise and resolve issues informally throughout the licensing process. They also will serve as the members of the dispute resolution panel if convened under paragraph 6. The neutral third party panelist(s) described in paragraph 6.3.A. will not be identified and enlisted until it is determined that a panel is necessary.

4.4. A Cooperating Agency will not be considered a party to the relicensing proceeding for the term of its cooperating relationship. Any communication between FERC and a Cooperating Agency that involves the cooperating relationship and relates to the NEPA documents will be exempt from disclosure consistent with the FERC ex parte regulations in 18 CFR Section 385.2201(e); except that any communication necessary for the completeness of the record, including any communication necessary to preserve a Cooperating Agency's right pursuant to paragraph 4.5 hereof, will be on the record. Any communication between FERC and a Cooperating Agency that relates to the merits of the decision on the License Articles or Terms and Conditions will be on the record.

4.5. Regardless of whether or not it is a Cooperating Agency in a given proceeding, a Resource Agency has the same rights and duties to participate in the development of the public record in that proceeding as provided in 18 CFR Parts 4 and 16.

4.6. A Cooperating Agency may elect to terminate its cooperating status as a non-party and become a party at any time prior to the deadline for rehearing of the final licensing decision by filing an intervention with FERC. However, a Cooperating Agency which terminates its status may seek rehearing or judicial review on the ground that the document is inadequate only as follows:

A. The document omits an alternative or finding of impact timely proposed by the Cooperating Agency pursuant to paragraph 4.3;

B. It does not conform to the scope stated in paragraph 4.3.C and 4.3.D; or

C. The Cooperating Agency disagrees with the ultimate finding of FERC as lead agency regarding an alternative or impact; provided that the Cooperating Agency had previously stated its specific objection to that finding on the record, including detailed basis both in law and fact, and had proposed an alternative finding in an appropriate form, in a timely communication consistent with paragraph 4.3; and provided further that the Cooperating Agency had diligently pursued a remedy for that objection, including the dispute resolution procedure stated in paragraph 6.

5. Scoping and Issuance of Scoping Document

5.1. FERC and Cooperating Agencies, with input from the Licensee and Stakeholders, will issue Scoping Document 1 (''SD1'') 90 days following IIP/ICD issuance. SD1 will include:

A. Identification of resource goals and objectives, issues and information needed (basic methodology, geographic and temporal scope), including consideration of the need by FERC and Resource Agencies to compile a complete administrative record.

B. Preliminary alternatives, including the No Action alternative, the Licensee's alternative, and others as appropriate.

C. A schedule (conforming to applicable rules, as amended by this proposal) for all subsequent actions by the Licensee, FERC, Cooperating Agencies, and others leading to timely licensing decision. The schedule will be kept current and periodically revised as necessary based on developments.

D. A description of unresolved disagreements between FERC and Cooperating Agencies on each of the above. The description will state each side of the dispute.

5.2. FERC and Cooperating Agencies in cooperation with the Licensee will hold a Scoping Meeting within 30 days of the issuance of SD1 and a Site Visit. The site visit may occur prior to the issuance of SD1 or soon after the comment period to accommodate weather or seasonal needs.

5.3. Comments to SD1, which may include requests for studies, will be due 30 days after the Scoping Meeting.

5.4. Licensee will develop a study plan outline and send it to FERC and Resource Agencies within 30 days after the public comment period under section 5.3 ends.

6. Dispute Resolution

6.1. This dispute resolution process can be used to resolve disputes between FERC, Cooperating Agencies and other Resource Agencies.

6.2. FERC and Cooperating Agencies will issue an advisory opinion 60 days after the Licensee issues its study plans on the extent to which the data to be provided and the study plan outline as developed by the Applicant is sufficient. That advisory opinion will also discuss and determine study topics to be addressed, methodology to be used, geographic and temporal scope of the analysis, and the foreseeable project-related impacts on target resources that the study plan is to address consistent with previously established resource goals and objectives. The advisory opinion will be joint, including a statement of any unresolved dispute between FERC and a Cooperating Agency related to the advisory opinion and will be distributed to both the Licensee and the Stakeholders.

6.3. FERC and a disputing Cooperating Agency will make best efforts to resolve disputes prior to issuance of the joint advisory opinion. However, if the dispute between FERC and a Cooperating Agency is not resolved pursuant to paragraph 6.2, then an advisory panel will be convened as stated below. Studies discussed in the advisory opinion which are not subject to a dispute between FERC and a Cooperating Agency shall proceed while the dispute resolution process is conducted on the specific disputed studies.

A. The panel will be comprised of a senior policy staff member from FERC and from the disputing agency, and such neutral third parties (as necessary to ensure that there is an odd number in total). FERC and the disputing agency will choose (with disclosure of any potential conflict of interest) the neutrals, after consultation with the Licensee and participating Stakeholders.

B. At the time of issuance of the advisory opinion under paragraph 6.2, FERC will notify Licensee and other Stakeholders that the panel will be convened (specifying a date more than 30 days but no more than 60 days after issuance of the advisory opinion), and Licensee and other Stakeholders will have 30 days to submit information for the panel's consideration.

C. The panel will issue a recommendation within 90 days after being convened, subject to adjustment in extraordinary circumstances.

D. FERC and Cooperating Agencies will issue a revised advisory opinion 30 days following the panel recommendation, which incorporates and responds to the recommendations of the advisory panel.

6.4. A Resource Agency which declines to become a Cooperating Agency will use the procedure established in paragraph 6.3 to resolve an otherwise unresolved dispute related to study requests in the NEPA review.

6.5. If a dispute regarding a matter addressed by the advisory opinion issued under paragraph 6.2 has not been timely resolved at the staff level or through the panel procedure in paragraph 6.3, the dispute will be elevated to a meeting at the level of the disputing agencies' Chairman or

Secretary within 60 days after the deadline of 120 days represented by steps 6.3 (B) and 6.3 (C) above.

6.6. FERC will inform the Licensee and Stakeholders of the outcomes of the dispute resolution procedure within 15 days of the decision(s) reached pursuant to paragraphs 6.3 through 6.5.

6.7. In addition, or as an alternative, to the dispute resolution procedure provided in paragraphs 6.2–6.6 above, Licensee and Stakeholders may develop an alternative procedure to resolve disputes on the content of the advisory opinion. Such an alternative procedure will be developed prior to the due date for the advisory opinion as stated in paragraph 6.2 above.

7. Study Development

7.1. After consideration of Stakeholders' comments and the advisory opinions (as revised pursuant to paragraphs 6.2 through 6.7), Licensee will adopt a study plan within 60 days after notice from FERC of the advisory opinion (as revised) which plan will provide for conducting studies and collecting data.

7.2. Any Stakeholder will follow 18 C.F.R. Section 16.8(b)(4), (c)(2), or (d)(2), and the schedule established in paragraph 5.3 to make any Additional Information/Study Requests (''AI/SR'').

7.3. The Licensee will be deemed to have discharged its responsibility to conduct studies or gather information if its study plan is executed in a manner consistent with the advisory opinion issued pursuant to paragraphs 6.2 to 6.7. This presumption may be rebutted by the objecting stakeholder only if (A) an unexpected study result is found, (B) there is a change in applicable law, or (C) there is a dispute regarding implementation of the study plan, relative to the AI/SR that the Licensee did not undertake.

A. ''Unexpected study result'' means that there is a potentially significant impact that was previously not foreseen to occur, or that the intensity of a significant impact is so different than foreseen that additional study is appropriate for the development of protection, mitigation, or enhancement measures. This contemplates a clear demonstration of an anomalous result [23].

B. ''Change in applicable law'' is a change in statute or rule, that may materially affect the appropriate level of protection, mitigation, or enhancement of resources affected by the project. An example is a new ESA listing applicable to the project reach.

C. ''Dispute regarding implementation of study plan'' means that an objecting stakeholder has a reasonable basis to dispute that the Licensee followed generally accepted scientific methods in the implementation of the study plan. This excludes the choice of any scientific method specifically identified in the advisory opinion, although it may include a dispute regarding the implementation of the method.

[23] This is not intended to repeat studies because the results obtained were unexpected. However, it would apply to new issues identified either through the studies or outside activities.

8. Preliminary Draft Environmental Document and Preliminary Conditions

8.1. Prior to the release of Preliminary Draft Environmental Document (''PDED''), the Licensee will release a summary of which studies have been completed to date and will disclose which additional studies the Licensee intends to conduct.

8.2. Licensee will issue its PDED after consulting with FERC and Cooperating Agencies, and no later than 3 years prior to license expiration. There will be a 60-day comment period on the PDED. The PDED document, which functionally will replace the environmentally related sections of the draft application, will include:

A. Refined issues based on completed studies;

B. Review of comments on study results.

C. A description of additional studies planned.

D. A refined set of alternatives.

8.3. Concurrent with issuance of the PDED, the Licensee will commit to provide the additional information identified as to be done in the PDED, on a schedule acceptable to itself, FERC and Cooperating Agencies.

8.4. Licensee will convene a public meeting within 30 days after PDED publication. FERC and Cooperating Agencies will participate. FERC will issue notice of the publication within ten days of receiving the PDED, at least 15 days prior to the meeting.

8.5. Each Resource Agency will provide preliminary draft Terms and Conditions during the 60-day comment period on the PDED.

9. Application Filed

9.1. Application will be filed 2 years before license expiration date (same as existing practice). The application will include all results from studies completed, a listing of studies in progress, and proposed protection, mitigation and enhancement measures.

10. FERC Tender and Procedural Notice/Ready for Environmental Decision (''Red'') Notice/Revised Agency Draft Terms and Conditions

10.1. FERC will issue a tender notice within 14 days of filing and will issue a procedural notice within 60 days of filing of application. On publication of such tender notice, Stakeholders become subject to *ex parte* rules.

10.2. Within 60 days of filing of the application, FERC and Cooperating Agencies will issue notice that the application is ready for environmental decision (''RED''), or if the application is not ready for environmental decision FERC and Cooperating Agencies will identify additional information needed as listed in the joint advisory opinion (as revised to handle resolution of any disputes pursuant to paragraph 6 above) to make it ready.

10.3. Each Resource Agency will issue revised preliminary draft Terms and Conditions within 60 days after RED notice.

11. Draft Environmental Assessment/Environmental Impact Statement; Draft Terms and Conditions; and Draft License Articles

11.1. Within 180 days after the RED notice, FERC and Cooperating Agencies will issue draft EA/EIS (as an informational document, not decisional, as set forth in paragraph 4.3 above) for public review and comment. Also within 180 days after the RED, FERC and any other agency that plans to submit Terms and Conditions to FERC will separately issue draft License Articles and draft Terms and Conditions. The draft EA/EIS will state any dispute between FERC and Cooperating Agencies with respect to environmental impact analysis (consistent with paragraph 4.3 above).

11.2. There will be a 60-day public comment period on the draft EA/EIS, draft License Articles, and draft Terms and Conditions.

11.3. Each Resource Agency will submit final or final draft Terms and Conditions, within 45 days following the close of the public comment period on the draft EA/EIS. A Resource Agency may require publication of a final NEPA document before issuance of final Terms and Conditions, in which case the agency may issue final draft Terms and Conditions at this time. In the alternative the agency may issue final Terms and Conditions at this time, subject to reopener if the final EA/EIS document contains new information not contained in the draft.

11.4. To encourage resolution of issues informally and to reduce time regarding disputes related to final (and draft) Terms and Conditions, FERC and the Agencies may use the dispute resolution process described in section 6 above.

12. Final Environmental Document and License Issuance

12.1. The final EA/EIS (as an informational document, consistent with paragraph 4.3 above) will be published separately from the License. The License will be issued by FERC and will include final Terms and Conditions. The final EA/EIS will describe any remaining dispute between FERC and a Cooperating Agency regarding environmental impacts analysis.

[FR Doc. 02–23655 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–12–000]

Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design

September 10, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice revising public comment schedule and announcing technical conferences.

SUMMARY: On July 31, 2002, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the

above-captioned docket, proposing to amend its regulations to remedy undue discrimination through open access transmission service and standard electricity market design, (67 FR 55452, August 29, 2002). The Commission is extending the time for parties to file comments on the proposed rule, providing parties an opportunity to file reply comments and convening a series of technical conferences to address several specific issues identified in the NOPR.

DATES: Comments should be filed on or before November 15, 2002.

Reply comments should be filed on or before December 20, 2002.

A series of conferences will be convened on: October 2, 2002, October 3, 2002 and December 11, 2002.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David Withnell (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8287.

SUPPLEMENTARY INFORMATION:

Notice Revising Public Comment Schedule and Announcing Technical Conferences

In the six weeks since the Commission issued its Notice of Proposed Rulemaking (NOPR) in the above-captioned docket, Commission members and staff have participated in numerous meetings and conferences throughout the country to discuss the proposed rule. These meetings have been a valuable source of information about the response of the general public, and specifically the electric utility industry, to the proposed Standard Market Design rule and the issues that the Commission must address going forward.

1. Various entities have asserted that the 75-day comment period provided in the NOPR does not allow enough time for the public to review the NOPR and provide the detailed comments that the Commission requested therein. Several parties also have expressed their wish to provide reply comments in order to develop an on-the-record dialogue about the NOPR's proposals.

2. We will grant an extension of time to permit all interested parties to file comments on the NOPR by November 15, 2002. In addition, we will allow all interested parties to file reply comments on or before December 20, 2002. All comments should include an executive summary that should not exceed ten pages.

3. In addition, Commission staff will convene a series of technical conferences this fall to address several specific issues identified in the NOPR. The Commission also will reserve a week in January 2003 for any further technical conferences necessary to explore remaining areas of concern identified during our continued outreach and through the comment process.

4. The fall conference schedule will be as follows:

• *October 2, 2002:* Essential elements of a standard market monitoring plan. Please refer to the Notice issued in this docket on August 28, 2002 for further details.

• *October 3, 2002:* Standard software to support electric grid and market operations under Standard Market Design. Please refer to the Notice issued in this docket on August 22, 2002 for further details.

• *December 11, 2002:* This conference will address liability and indemnification provisions in the Standard Market Design Tariff, as specified in paragraph 389 of the NOPR.

5. Each conference will be held from approximately 9:30 a.m. to 5 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. The conferences are open to the public, and registration is not required. Members of the Commission may attend and participate in the discussions. Further details about each conference will be provided in supplemental notices.

2. Transcripts of the conference will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646), for a fee. They will be available for the public on the Commission's FERRIS system two weeks after the conference. Additionally, Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100) as soon as possible or visit the Capitol Connection website at *http://www.capitolconnection.gmu.edu* and click on ''FERC.''

By direction of the Commission.

Magalie R. Saler,

Secretary.

[FR Doc. 02–23694 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 2

[USCG 2001–9044]

RIN 2115–AG13

Territorial Seas, Navigable Waters, and Jurisdiction

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: On August 14, 2002, we published a notice of proposed rulemaking to conform the Coast Guard's definitions of jurisdictional terms to existing law. In our proposed revision of 33 CFR part 2, we inadvertently omitted the contents of footnote 2. This document corrects that omission.

DATES: Comments and related materials on our corrected proposed rule must reach the Docket Management Facility on or before November 12, 2002.

ADDRESSES: To make sure that your comments and related materials are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9044), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) By electronic means through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Alex Weller, Office of

Maritime and International Law, U.S. Coast Guard, telephone 202–267–0097. If you have questions on viewing or submitting materials to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Need for Correction

On August 14, 2002, we published a notice of proposed rulemaking (NPRM) to conform the Coast Guard's definitions of jurisdictional terms to existing law (67 FR 52906). Because we did not intend to omit the contents of a footnote in our proposed revision of 33 CFR part 2, we are publishing this correction to our proposed rule.

Discussion of Correction of Proposed Rule

In 33 CFR, current §§ 2.05–25 (Navigable waters of the United States; Navigable Waters; Territorial Waters) and 2.05–30 (Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction) both reference a footnote 2. That footnote informs the reader that the use of the terms ''State'' and ''United States'' in these two sections should be considered supplementary to, and not as interpretive of, the statutory definitions of these terms. We mistakenly omitted the contents of footnote 2 from our proposed rule.

Rather than inserting the same footnote in our proposed §§ 2.36 and 2.38 that correspond to §§ 2.05–25 and 2.05–30, we instead are including this information in our note to proposed § 2.5 (Specific definitions control). The current note to § 2.5 provides examples of how a specific statutory and regulatory definition would supersede definitions in 33 CFR part 2. We propose to add the following two sentences to this note: ''Also, in various laws administered and enforced by the Coast Guard, the terms ''State'' and ''United States'' are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.36 and 2.38 should be considered as supplementary to these statutory definitions and not as interpretive of them.''

Correction

In proposed rule FR Doc. 02–20481, beginning on page 52906 in the issue of August 14, 2002, make the following correction:

§ 2.5 [Corrected]

On page 52911, in the first column, starting on line 14, at the end of Note to § 2.5, add the following sentences: ''Also, in various laws administered and enforced by the Coast Guard, the terms ''State'' and ''United States'' are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.36 and 2.38 should be considered as supplementary to these statutory definitions and not as interpretive of them.''

Dated: September 13, 2002.

R. F. Duncan,

Chief Counsel, U.S. Coast Guard.

[FR Doc. 02–23754 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–15–P

Notices

Federal Register

Vol. 67, No. 181

Wednesday, September 18, 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

National Sheep Industry Improvement Center; Solicitation of Nominations of Board Members

AGENCY: National Sheep Industry Improvement Center.

ACTION: Notice: Invitation to submit nominations.

SUMMARY: The National Sheep Industry Improvement Center announces that it is accepting nominations for the Board of Directors of the National Sheep Industry Improvement Center for three voting directors' positions whose terms expire on February 13, 2003. Two positions are for members who have expertise in finance and management and one position is for a member who is an active producer of sheep or goats. Board members manage and oversee the Center's activities. Nominations may only be submitted by National organizations that consist primarily of active sheep or goat producers in the United States and who have as their primary interest the production of sheep or goats in the United States. Nominating organizations should submit:

(1) Substantiation that the nominating organization is national in scope,

(2) The number and percent of members that are active sheep or goat producers,

(3) Substantiation of the primary interests of the organization, and

(4) An Advisory Committee Membership Background Information form (Form AD–755) for each nominee.

This action is taken in accordance with 7 U.S.C. 2008j(f) which establishes the powers and composition of the Board of Directors for the National Sheep Industry Improvement Center.

DATES: Completed nominations must be received no later than November 4, 2002. Nominations received after that date will not be considered.

ADDRESSES: Submit nominations and statements of qualifications to Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, USDA, PO Box 23483, Washington, DC 20026–3483 if using the U.S. Postal Service or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250 if using other carriers.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson, Executive Director/CEO, National Sheep Industry Improvement Center, USDA, PO Box 23483, Washington, DC 20026–3483 if using the US Postal Service or Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250 if using other carriers. Forms and other information can be found at *http://www.nsiic.org*. Telephone (202) 690–0632, (This is not a toll free number.) FAX 202–720–1053.

SUPPLEMENTARY INFORMATION: The National Sheep Industry Improvement Center (NSIIC), or Sheep Center (Center), is authorized under 7 U.S.C. 2008j. The Center shall (1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States; (2) optimize the use of available human capital and resources within the sheep or goat industries; (3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research; (4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to special needs of the sheep or goat industries on both a regional and national basis; and (5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

The management of NSIIC is vested in a Board of Directors that is appointed by, and reports to the Secretary of Agriculture. The Board of Directors is composed of seven voting members of whom four are active producers of sheep or goats in the United States, two have expertise in finance and management, and one has expertise in lamb, wool, goat or goat product marketing. Of the three open positions, two positions are for members who have expertise in finance and management and one position is for a member who is an active producer of sheep or goats. The Board also includes two non-voting members, the Under Secretary of Agriculture for Rural Development and the Under Secretary of Agriculture for Research, Education, and Economics. The Executive Director serves as the CEO.

The Secretary of Agriculture shall appoint the voting members from the submitted nominations. Member's term of office shall be three years. Voting members are limited to two terms. Each of the three positions for which nominees are being sought are currently held by members who are serving second terms and are therefore not eligible to be re-nominated.

The Board shall meet not less than once each fiscal year, but is likely to meet at least quarterly. Board members will not receive compensation for serving on the Board of Directors, but shall be reimbursed for travel, subsistence, and other necessary expenses.

The statement of qualifications of the individual nominees is being obtained by using Form AD–755, ''Advisory Committee Membership Background Information'' which can be accessed at *http://www.nsiic.org*. The requirements of this form are incorporated under OMB number 0505–0001.

Dated: September 13, 2002.

Jay B. Wilson,

Executive Director/CEO, National Sheep Industry Improvement Center.

[FR Doc. 02–23706 Filed 9–17–02; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Mineral County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Lolo National Forest Mineral County Resource Advisory Committee

will meet on October 3 at 6 p.m. in Superior, Montana for a business meeting. The meeting is open to the public.

DATES: October 3, 2002.

ADDRESSES: The meeting will be held at the Mineral County Courthouse, 300 River Street, Superior, MT 59872.

FOR FURTHER INFORMATION CONTACT: Robert Harper, Designated Federal Official (DFO), District Ranger Superior Ranger District, Lolo National Forest at (406) 822–4233.

SUPPLEMENTARY INFORMATION: This will be the first meeting of the Mineral County Resource Committee. Agenda topics include reviewing the role of the RAC, the purpose of Title II funds and receiving public comment. If the meeting location is changed, notice will be posted in the local newspapers, including the Mineral Independent and the Missoulian.

Dated: September 11, 2002.

Robert Harper,

Designated Federal Official, District Ranger, Superior Ranger District.

[FR Doc. 02–23679 Filed 9–17–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Upper Hocking Watershed, Structure R–23, Fairfield County, OH

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Rules (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of Structure R–23 in the Upper Hocking Watershed, in Fairfield County, Ohio.

FOR FURTHER INFORMATION CONTACT: Kevin Brown; State Conservationist; Natural Resources Conservation Service; 200 North High Street, Room 522, Columbus, Ohio 43215; telephone 614–255–2500.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Kevin Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is grade stabilization and erosion control. The action includes the rehabilitation of one dam. The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency; various Federal, state and local agencies; and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Kevin Brown.

No administrative action on implementation of the preferred alternative will be taken until 30 days after the date of this publication in the **Federal Register**.

Kevin Brown,

State Conservationist.

Finding of No Significant Impact for the Upper Hocking Watershed, Fairfield County, Ohio

Introduction

This undertaking is being planned and will be implemented under the authority of the emergency Watershed Protection Program (7 CFR 624). This program was enacted by Section 216 of Public Law 81–516, Section 403 of Public Law 95–334 (Title IV of the Agricultural Credit Act of 1978), and Section 382 of Public Law 104–127 (Title III of the 1996 Farm Bill). This action is being planned in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, as amended (42 U.S.C. 4321 *et. seq.*). The policy and procedures of the Watershed Protection and flood Prevention Act, Public Law 83–566, as amended (16 U.S.C. 1000–1008) are also being utilized for the planning and implementation of this undertaking.

The rehabilitation of the Upper Hocking Watershed Structure R–23 is a federally assisted action. An environmental assessment was completed for the action and was conducted in consultation with local, state, and federal agencies, as well as other interested organizations and individuals. Data developed during the assessment is available for public review at the following location: USDA Natural Resources Conservation Service, 200 North High St., Rm. 522, Columbus, Ohio 43215–2478

Preferred Alternative

The sponsors preferred alternative for the rehabilitation of Structure R–23 would be to upgrade the dam to meet state dam safety criteria for a medium hazard dam (NRCS Class B and ODNR Class II). Rehabilitation would include replacing the deteriorated principal spillway with a new riser and outlet pipe, and reconstructing the auxiliary spillway to increase the storage-discharge capacity of the dam to safely pass 50 percent of the probable maximum precipitation event without overtopping the embankment.

Effect of the Preferred Alternative

This alternative would fully meet the needs and desires of the sponsors and the public by protecting public health and safety while also meeting all applicable dam safety and performance standards. This alternative would greatly diminish the potential for dam failure. Total cost of this alternative is estimated to be $125,000.00.

Construction activities would require draining the 5-acre pond, and removing part of the dam, to accomplish riser and pipe removal and replacement. It is anticipated that the project construction activities would take approximately 6 weeks. At least 4 landowners must drive across the private road on top of the dam to get to their residences. During the construction period, this road would be closed to the public. A temporary access road to the homes would be made part of the project.

Temporary displacement of wildlife, aquatic species, and fish that use the lake would occur during construction. The water would be lowered very slowly to minimize impacts to the wildlife, aquatic species, and fish. In the long term, use of the area by wildlife and aquatic species should return to pre-construction levels. After the project is completed, the pond would be restocked with fish as per the concerns of the surrounding landowners.

About 5 acres would be temporarily disturbed due to the construction of this project. All disturbed areas on the fill and in the emergency spillway will be seeded to an erosion controlling grass.

This action will have no effect on wetlands, rare, or threatened and endangered species, and prime or unique farmland. Air quality in the watershed will be essentially unaffected by the rehabilitation project. There will be brief, temporary increases in noise levels and pollution of air from dust and exhaust emissions, which are inherent in earth moving construction processes.

An environmental assessment was completed as part of the planning process. An inventory for cultural resources was completed as part of the environmental assessment. The Ohio Historic Preservation Office has submitted written notification, in accordance with the provisions of Section 106 of the National Historic Preservation Act, as amended, and the Act's implementing regulations, 36 CFR 800, that there is little likelihood the project will encounter significant archaeological sites or buildings. It is of their opinion that the proposed work will not affect historic properties. Concerns have been addressed from contacted tribes. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the state Historic Preservation Officer. NRCS will take action as prescribed in NRCS General Manual 420, Part 401, to protect or recover any significant cultural resource during construction.

Alternatives

The preferred alternative is the most practical alternative to meet the purpose and needs of this action. Three alternatives were considered: (1) No Action, (2) Decommission the Structure, and (3) Structure Rehabilitation.

Consultation—Public Participation

Meetings were held with the project sponsors in June, July, and December of 2001, and April of 2002. On April 23, 2002, the sponsors held a public meeting. In addition, letter requests for concerns and issues were sent to federal and state agencies, and organizations. All concerns and issues were addressed in the environmental assessment.

Conclusion

The environmental assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the human environment. Therefore, based on the above findings, I have determined that an environmental impact statement is not required for the rehabilitation of the Upper Hocking Watershed Structure R–23.

Dated: August 30, 2002.

Kevin Brown,

State Conservationist.

[FR Doc. 02–23684 Filed 9–17–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Changes in Hydric Soils of the United States

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of change.

SUMMARY: Pursuant to 7 CFR 12.30(a)(4), The Natural Resources Conservation Service, United States Department of Agriculture gives notice of a change in the wording of the criteria used to generate the list of hydric soils of the United States as published in the third edition of Hydric Soils of the United States, Miscellaneous Publication 1491, U.S. Department of Agriculture, Soil Conservation Service, June 1991.

FOR FURTHER INFORMATION CONTACT: Karl W. Hipple, Chair, National Technical Committee for Hydric Soils, National Soil Survey Center, NRCS, Room 152, Mail Stop 36, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508–3866, Telephone (402) 437–5351.

SUPPLEMENTARY INFORMATION: The wording of criteria 1 and 2 has been changed to incorporate recent changes in Soil Taxonomy.

Criteria for Hydric Soils

1. All Histels except Folistels, and all Histosols except Folists, or

2. Soils in Aquic suborders, great groups, or subgroups; Albolls suborder; Historthels and Histoturbels great groups; and Cumulic or Pachic subgroups that are:

a. Somewhat poorly drained with a water table equal to 0.0 foot (ft) from the surface during the growing season, or

b. poorly drained or very poorly drained and have either:

(1) Water table equal to 0.0 ft from the surface during the growing season if textures are coarse sand, sand, or fine sand in all layers within 20 inches (in) of the surface, or for other soils,

(2) Water table at less than or equal to 0.5 ft from the surface during the growing season if permeability is equal to or greater than 6.0 in/hour (h) in all layers within 20 in of the surface, or

(3) Water table at less than or equal to 1.0 ft from the surface during the growing season, if permeability is less than 6.0 in/h in any layer within 20 in, or

3. Soils that are frequently ponded for long duration or very long duration during the growing season, or

4. Soils that are frequently flooded for long duration or very long duration during the growing season.

Signed in Washington, DC, on August 5, 2002.

Bruce I. Knight,

Chief.

[FR Doc. 02–23683 Filed 9–17–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No: 980901228–2207–03]

Solicitation of Applications for the Minority Business Opportunity Committee (MBOC) Program

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) is soliciting applications from organizations seeking to operate Minority Business Opportunity Committees (MBOC). Applications are being solicited from all geographical areas within the United States, including the Commonwealth of Puerto Rico and the Virgin Islands. MBDA anticipates funding one (1) MBOC within each of the geographic regions listed under ''For Further Information Contact, Pre-Application Conference''. In order for their proposals to receive consideration, applicants must comply with all information and requirements contained in this notice and the Application Package (AP).

MBDA is an entrepreneurially focused and innovative organization that is committed to empowering minority business enterprises (MBEs) and creating wealth-building opportunities. MBDA fosters the creation, growth and expansion of MBEs in America by providing business development services, tools (*e.g.*. Minority Business Internet Portal *http://www.mbda.gov*) and programs. Each program is designed to focus on the unique business problems of a specific market. MBDA's programs form a national business delivery network that addresses the needs of minority entrepreneurs throughout the United States. The MBOC program is designed to provide minority entrepreneurs with enhanced access to markets, capital, and information. This is accomplished by identifying contracts, business ownership, marketing, sales, financing, and joint venture opportunities, to position MBEs for long-term growth. State or local government entities, American Indian Tribes, colleges, universities, non-profit, and for-profit organizations are eligible to operate MBOCs.

This solicitation incorporates the new requirement that MBOCs utilize information technology to collect and disseminate information for and about MBEs. Additionally this solicitation requires that MBOCs install systems whereby information regarding performance measures can be electronically transmitted to MBDA. (See Computer Requirements.)

DATES: The closing date for applications is October 18, 2002. Completed applications for the MBOC program must be: (1) Mailed (USPS postmark) to the address below; or (2) received by MBDA at the address below no later than 5:00 p.m. Eastern Daylight Time. It is strongly recommended that applicants utilize an overnight mail delivery service to ensure timely receipt of applications. Applicants using this service must ensure that applications are received by MBDA by 5 PM Eastern Daylight Time. Applications postmarked later than the closing date will not be considered. MBDA anticipates that awards will be made with a start date of January 1, 2003.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the application. Completed application

packages must be submitted to: Minority Business Opportunity Committee Program Manager, Office of Executive Secretariat, HCHB, Room 5063, Minority Business Development Agency, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

If the application is hand-delivered by the applicant or its representative, the application must be delivered to Room 1874, which is located at Entrance #10, 15th Street, NW., between Pennsylvania and Constitution Avenues.

FOR FURTHER INFORMATION CONTACT: For further information and an Application Package contact Stephen Boykin, the MBOC Program Manager, at (202) 482–1712.

Pre-Application Conference: A pre-application conference to answer questions related to the solicitation will be conducted. Contact the MBDA Regional Office for the date and time. There are five (5) Regions. They are comprised as follows:

1. San Francisco Region, located at 221 Main Street, Suite 1280, San Francisco, CA 94105. This region covers the states of Alaska, American Samoa, Arizona, California, Hawaii, Idaho, Nevada, Oregon and Washington. Contact Melda Cabrera, Regional Director at 415–744–3001.

2. Dallas Region, located at 1100 Commerce Street, Suite 7B–23, Dallas, TX 75242. This region covers the states of Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah and Wyoming. Contact John Iglehart, Regional Director at 214–767–8001.

3. Chicago Region, located at 55 E. Monroe Street, Suite 1406, Chicago, IL 60603. This region covers the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin. Contact Carlos Guzman, Acting Regional Director at 312–353–0182.

4. Atlanta Region, located at 401 W. Peachtree St., NW., Suite 1715, Atlanta, GA 30308. This Region covers the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and the Commonwealth of Puerto Rico and the Virgin Islands. Contact Robert Henderson, Regional Director at 404–730–3313.

5. New York Region is located at 26 Federal Plaza, Room 3720, New York, NY 10278. This Region covers the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and Washington, DC. Contact Hayward Davenport, Regional Director at 212–264–3262.

SUPPLEMENTARY INFORMATION: *Authority:* Executive Order 11625 and 15 U.S.C. 1512.

Catalogue of Federal Domestic Assistance (CFDA): 11.803, Minority Business Opportunity Committee Program.

Program Description

The Minority Business Development Agency (MBDA) is a part of the U.S. Department of Commerce. MBDA was created in 1969 through Executive Order; it is the only Federal agency created specifically to foster the establishment and growth of minority-owned businesses in America. MBDA provides assistance to socially or economically disadvantaged groups who own or wish to start or expand their own businesses. The disadvantaged groups that MBDA serves include African Americans, Native Americans, Puerto Ricans, Spanish-speaking Americans, Eskimos, Aleuts, Asian Indians, Asian Pacific Americans, and Hasidic Jews. The MBOC Program strives to help this population segment to achieve entrepreneurial parity by actively facilitating the deployment of resources to enable the minority business community to grow and compete in the U.S. and global economies.

The Minority Business Opportunity Committee (MBOC) is a local volunteer organization comprised of high-level, public and private sector executives. These executives are dedicated to forming alliances that plan, coordinate, create and deliver innovative policies, programs, and strategies that significantly accelerate the level of entrepreneurial activity within the minority business community. MBOCs encourage greater participation and interaction between majority and minority business owners. The primary and long-range goal of an MBOC is to increase opportunities for minority entrepreneurs to obtain additional capital, management skills, and market penetration.

In order to accomplish these goals, MBOCs perform the following functions:

—Serve as local centers of influence to increase levels of communication between MBOC memberships and the local minority business community and to facilitate the development of strategies leading to more financial transactions between the majority and minority business community.
—Identify and facilitate wealth-creating and economy-stimulating opportunities within the minority business sector.
—Develop approaches for disseminating wealth-building information to the minority business communities.
—Identify barriers to economic growth and develop strategic solutions for overcoming these barriers, particularly in the area of capital, management and market penetration (Money, Management, and Market—3 M's).
—Serve as community advocates for the full inclusion of minority businesses in the economic life of the community.
—Serve as mentoring entities for minority businesses.
—Serve as strategic partners to blend core competencies and leadership capabilities of MBOC membership with the complementary strengths and capabilities of minority businesses.

The purpose of the MBOC Program is to move the minority business community into the business mainstream as a viable contributor to the economy. The primary objectives of MBOCs are to increase opportunities for minority-owned companies to access capital and markets, and to develop institutional capability at the local level for continuing minority business success.

Background

The MBDA has established the MBOC Program as a vehicle for providing timely market leads, access to capital, resources, and current business information. MBOCs assist MBEs seeking to market their products and services within the local economy. In accomplishing this purpose, MBOCs help to facilitate economic parity and to bring coordination and synergy to the MBE development efforts taking place within an applicant-defined geographical service area.

MBOCs are typically comprised of local governments, business and industry leaders, and representatives of organizations that conduct substantial purchasing within the regional economy. These representatives should have the authority to influence their respective organizations to be responsive to the needs of MBEs. MBOC member organizations may include large corporations, federal, state, and local governments, banking and financial institutions, chambers of commerce, community development organizations, training organizations, trade associations, economic development groups, quasi-public entities (transit authorities, ports, stadium authorities, and public utilities), and non-profit

entities to include hospitals, colleges, and universities. Industries represented on the MBOC should include, where appropriate, transportation, construction, travel and tourism, high technology, health care, telecommunications, manufacturing, retailing, and other sectors of the local economy that generate, or have the potential to generate, sales, and business ownership opportunities. Participation on the MBOC of a broad cross-section of government and industry executives helps to ensure that MBEs have access to a breadth of information concerning market opportunities. The purpose of the MBOC Program is to increase entrepreneurial endeavor and promote the full inclusion of MBEs in the overall economy.

Enhancing the MBOCs Through Technology

Over the past three years, MBDA has developed a variety of new technology tools designed to leverage the benefits of information technology to assist the MBE community. The goal of MBDA is to deploy technology enhancements to all of MBDA's funded organizations and create a state-of-the-art environment for the benefit of minority businesses. The MBDA will provide continuously updated information, access to resources anywhere in the country, and the best available assistance in any given subject area. The implementation of this strategy is the Minority Business Internet Portal (MBIP). Technology tools that will be made available to the MBOCs through MBDA's MBIP site include:

Phoenix/Opportunity—an electronic bid-matching system that alerts participating minority companies of contract and teaming opportunities directly via e-mail or fax. Procurement leads are transmitted to minority firms on a targeted basis according to the company's industry classification and geographic market. Firms seeking to participate in this program need only to transmit their company profile to MBDA online via the Agency's Phoenix application.

Resource Locator—a new and unique software application that allows MBEs to search for business resources and locate them on a map—interactively on the Internet. Resource Locator can help minority firms identify trade associations representing their industries, government licensing and permit offices, management and technical assistance providers, and a host of other resources quickly and efficiently, through Geographic Information System (GIS) technology.

Online Commercial Loan Identifier—an Internet-based tool that allows minority enterprises to shop for commercial loans online, and identify the best available financing terms. The Commercial Loan Identifier is designed to give minority firms the benefit of a nationwide market for commercial loan products.

Business and Market Planning Software—software packages to streamline and enhance the development of business plans, marketing plans and other strategic business documents.

The MBIP will serve as a very effective vehicle for enhancing the scope and service capability of the MBOC network. Through the portal site, each MBOC will receive standardized electronic business development tools and applications. The portal site will allow each MBOC access to the latest information regarding best practices, emerging market trends, success strategies, and other activities in the minority business development arena.

Work Requirements

Applicants should first include a description in their proposals showing how they intend to establish a detailed organizational and functional framework for the management and operation of the MBOC. The applicant must demonstrate how the operational structure of the MBOC will function and be financed. For example, the applicant should indicate how a program will be developed to recruit members from the federal, state, local and private sector organizations, and how the applicant intends to operate the MBOC in terms of meetings and the establishment of subcommittees or task forces. In addition, the selection of key personnel, such as a chairperson and executive director to manage the MBOC on a daily basis, is important.

At the onset of the project, MBDA works closely with the successful applicant to ensure that an Executive Director is in place within 30 days of receipt of the award. The Executive Director is approved by MBDA and must be an individual who is able to carry out the responsibility of this full-time position. The Executive Director and the MBOC chairperson, a high level volunteer member of the MBOC, are responsible for accomplishment of the goals and objectives of the MBOC. The Chairperson, appointed by the recipient, should be a senior ranking executive and is expected to serve a minimum of two years. The role of the Chairperson is critical to the overall success of the MBOC, as this individual is primarily responsible for liaison with the business community. The MBOC Executive Director occupies a position funded by MBDA. On a day to day basis the MBOC Executive Director's role is to provide continuity, professional and program guidance, and information and assistance to the overall committee.

In designing its MBOC proposal, the applicant should note that there are eight core areas in which activities must be conducted. MBDA encourages applicants to submit proposals that are ''tailored'' to their defined markets. Said applicants should also display the imagination and innovation they propose to carry out the activities in the core areas, to obtain the maximum business development impact. Every project proposed should specifically target those socially or economically disadvantaged groups, which MBDA serves in accordance with Executive Order 11625 and/or reach out to such groups within a broader community. Socially or economically disadvantaged refers to individuals and communities that are subject to barriers that limit or prevent their access to the marketplace. These barriers may be related to geographical location, capital, information, or management skills.

(1) *Access to Markets*—MBOCs should promote relationship-building and the sharing of information between substantial purchasing organizations, in the applicant-defined geographical service area, and MBE's that provide the services and products sought by these organizations. MBOCs must make full use of MBDA's Portal, which includes but is not limited to, the Phoenix and Opportunity applications (OMB No. 0640–002). MBOCs should request businesses to enter information into the Phoenix database. MBOCs should also enter opportunities in the Opportunity database. The MBOCs will serve as a clearinghouse both for minority companies seeking timely contract opportunities, and for mainstream institutions seeking to identify particular categories of minority suppliers. The MBOC should collect and disseminate procurement opportunity information to the MBE community, and engage in matchmaking activities between public/private sector purchasers and MBE suppliers.

(2) *Access to Capital*—MBOCs should work to create an environment within the finance and investment community that fairly values the business assets of minority-owned companies. Whether these assets are in the form of property, plants or equipment located in minority communities, a workforce which consists largely of minority employees or the character and credit-worthiness of an individual minority business owner,

the MBOC should help to ensure that the capital markets evaluate these assets objectively, and provide minority companies with access to capital on a nondiscriminatory basis. In addition to helping to ensure the availability of debt financing sources such as commercial banks and government-sponsored loan and/or loan guaranty programs, MBOC activities should include assisting in the identification of sources of equity capital for minority firms, such as venture capital funds, institutional investors (insurance companies, pension funds, etc.), and high net-worth individuals.

(3) *Contracts and Financial Instruments*—Facilitate the award of contracts, loans, bonds, and other instruments to minority entrepreneurs by being directly involved as the intermediary between MBOC members who have the ability to make a contract award or provide a loan and MBEs who have the ability to perform the contract or have a financial need for capital, resulting in completed transactions.

(4) *Sustained Advocacy on Behalf of the MBE Sector*—MBOCs should play a clear and highly visible role in articulating the benefits, which are derived from the full participation of the relevant MBE sector. MBOC leadership, including government officials, private sector executives, and other designated representatives of the MBOC should conduct media outreach, disseminate economic data, and otherwise advocate for inclusion of MBE's in the region's economic mainstream. Activities in this area include, the establishment of a Web Page and access to MBDA's Minority Business Internet Portal, the establishment of a newsletter, conducting workshops, making media appearances, attending trade fairs, participating in Minority Enterprise Development (MED) Week activities, and ensuring that achievements of the MBOC are communicated regularly to the corporate community, elected officials, and trade and industry groups. MBOCs should sponsor workshops and seminars on topics that promote utilization of minority-owned companies within the regional economy. Such activities may be directed at minority businesses, for example, arranging and promoting workshops on marketing to corporate and institutional clients, or may be directed at the mainstream business community, such as workshops on structuring diversity programs for procurements, or both. Workshops, conferences, and seminars should be designed by the MBOC leadership based on those topics which best address the needs and opportunities present within that MBOC's particular service area. For instance, an MBOC might participate in or develop educational activities to promote export opportunities for minority businesses. In addition to being a consistent vehicle for the promotion of the economic benefits of a healthy minority business sector, the MBOC should develop and set forth recommendations for changing procurement, banking, or other practices which may impede the growth of minority firms.

(5) *Business Ownership Opportunities*—Lack of succession, corporate divestitures, and other fortuitous circumstances often create opportunities for entrepreneurs to acquire companies. The key to identifying such opportunities is establishing relationships with corporate decision-makers, banking executives, suppliers and others having first-hand knowledge of such companies' conditions. The MBOC should develop local programs to bring entrepreneurial and business ownership levels in line with minority population percentages (Parity) and serve as a vehicle for bringing members of the minority and non-minority business communities together through the following activities: networking, subcommittee assignments, and other activities designed to promote the sharing of information. In addition, the MBOC should assist minority executives and managers within the corporate sector who have an interest in leveraging their current expertise through business acquisitions.

(6) *Entrepreneurship*—In light of the continuing low formation rate of minority businesses, MBOCs should direct some of their activities, including the use of events, conferences or workshops, to promoting the creation of entrepreneurial attitudes in the business community by extolling the benefits of business ownership. MBOCs should also sponsor activities designed to cultivate business ownership as a vocation among minority youth.

(7) *Resource Development*—The MBOC should maintain a constant inventory of the various resource providers within the project's service area that offer services that could assist minority companies. Such resource providers may include banks and other financial institutions, bonding companies, business consultants, chambers of commerce and other networking groups, trade associations active in all viable local industries, state, local and private technical assistance providers, etc. Resource development should also include the MBOC's ongoing analysis of procurement and financial transaction data on its members and participants to enhance the development of strategies to overcome barriers to economic growth and development and to allow tracking of minority business activities.

(8) *Operational Quality*—MBOCs must maintain the efficiency and effectiveness of their overall operations. The following considerations are means by which an MBOC maintains the efficiency and effectiveness of its overall operations as well as the quality of its efforts. This requirement directly contributes to an MBOC's overall qualitative evaluation and rating as well as the successful completion of all other work requirements. Under this work requirement, the MBOC shall: (1) Input progress/results to the Performance database in a timely manner; (2) comply with all reporting requirements; (3) cooperate with MBDA in maintaining content for the Phoenix/Opportunity database, Resource Locator, and other online tools located at *http://www.mbda.gov*; and (4) promote and utilize the services and resources of other MBDA programs, sponsored efforts and/or voluntary activities. The MBOC shall identify MBDA as the funding sponsor by providing signs worded as follows:

_____ Minority Business Opportunity Committee (geographic area) Operated by _____. Funded by: MINORITY BUSINESS DEVELOPMENT AGENCY (MBDA), U.S. DEPARTMENT OF COMMERCE.

These signs should be highly visible to the general public. They should be prominently displayed on entrances and doors. Include the name of MBDA on all stationery, letterhead, brochures, etc. The MBOC is not authorized to use either the Department's official seal or the MBDA logo on any of its publications, documents or materials without specific written approval from the U.S. Department of Commerce. Identify the MBOC immediately when answering the telephone. If the recipient also requires that its organization's name be given, it should be provided only after the MBOC has been verbally identified to the caller. Refer to MBDA in all advocacy and outreach efforts such as speaking engagements, news conferences, etc.

Computer Requirements

MBDA requires that all award recipients meet certain computer and technology requirements related to the acquisition, installation, configuration, maintenance and security of information technology (IT) assets, in order to ensure seamless and productive

interface between and among all grant recipients, the MBDA Information Technology system, and the public. These required assets and their configuration are hereinafter referred to as the ''enterprise.'' At a minimum, each grantee shall have one (1) desktop computer for the exclusive use of the MBOC. The basic component of the enterprise will be for the desktop workstation to be connected to the Internet using a high-speed Internet connectivity. If the recipient chooses to have more than one desktop computer, the basic component of the enterprise will be for the desktop workstations to be networked together and connected to the Internet using high-speed Internet connectivity.

The desktop computer/network shall have a constant, active connection to the Internet during all business hours. The recipient shall ensure that it has an E-mail capability with a unique electronic mail (email) address available to the public. Each grantee shall design, develop and maintain, in accordance with the computer requirements, a Web site and shall maintain appropriate computer and network security precautions during all periods of funding by MBDA. All Information Technology requirements, as described herein, shall be met within 30 calendar days after the award.

1. *Desktop Workstation*: The MBOC Staff will have access to at least one (1) computer workstation. All desktop systems shall be not more than two (2) calendar years old at the time of award and shall contain a processor (CPU) operating at speeds not less than 800 Megahertz (Mhz). Each desktop system shall contain a hard drive with a storage capacity of at least 10 Gigabytes (GB). All desktop systems shall have installed an operating system fully compatible with Microsoft Windows and Microsoft Internet Explorer 5.x or higher. MBDA shall, from time to time, designate certain configurations of the enterprise hardware and software to meet interface requirements.

1. *Maintenance and Security*: Each recipient shall designate and train one person competent in the operation of a Microsoft Windows compatible workstation. From time to time, MBDA shall require certain software to be loaded on desktops. In any given year, the cost of this additional software should not exceed $200.00 per workstation. Every employee of the Center shall be assigned a unique username and password to access the system. Every employee shall be required to sign a written computer security agreement. (A suggested format for the computer security agreement will be provided at the time of award.) Every manager, employee, and contractor and any other person given access to the computer system shall sign the security agreement and an original copy of the signed agreement shall be kept in the Center's files. A photocopy of the agreement shall be sent by fax to MBDA at: (202) 482–2696 no later than 30 days after the award. All subsequent new hires and associations requiring access to Center or MBDA systems shall read, understand and sign the security agreement prior to issuance of a password. No employee shall have access to the MBDA system without a signed security agreement on file at MBDA.

2. *Web Site*: Each recipient shall create and maintain a public web site using a unique address (*e.g.*, http://*www.mbocname*.com). The first page (Index page) of the web site shall clearly identify the recipient as a Minority Business Opportunity Committee, funded by the U.S. Department of Commerce's Minority Business Development Agency. The Index page of the web site shall load on software fully compatible with Microsoft Internet Explorer 4.x (or higher), and Netscape 4.x (or higher), using a normal personal computer with 56Kb/s analog phone line connection in less than ten (10) seconds. The web site shall contain the names of all managers and employees; the business and mailing address of the MBOC; business phone, fax numbers and email addresses of the employees; a statement referencing the services available at the MBOC, the hours of operation; and a link to the MBDA homepage (http://*www.mbda.gov*).

No third party advertising of commercial goods and services shall be permitted on the site. Advanced written approval for all links from the site to sites other than Federal, state or local government agencies and non-profit educational institutions must be approved. The approval request is made through the Chief Information Officer, MBDA Office of Information Technology Services to the Grants Office, OEAM. Such approval shall not be unreasonably withheld, but approval is subject to withdrawal if MBDA determines the linked site to be unsuitable. No MBOC employee, nor any other person, shall use the web site for any purpose other than that approved under the terms of the agreement between the recipient and MBDA. The recipient for accuracy, currency, and appropriateness shall review every page of the web site every three (3) months. Appropriate privacy notices and handicapped accessibility will be predominately featured. From time to time, MBDA shall audit the recipient's web site and recommend changes in accordance with the guidelines set forth herein.

3. *Time for Compliance:* Within 30 days after the award, the recipient shall report via email to the Chief Information Officer, MBDA Office of Information Technology Services and the Grants Officer that he/she has complied with all computer and technology requirements as specified herein. Within 30 days after the award, the recipient shall report the name, contact telephone numbers and email addresses of the Project/Executive Director, Network or System Administrator. As appropriate, the recipient shall also provide the telephone number and email address for the Technical Contact at the Internet Service Provider (ISP) providing Internet access for the grantee, the IP number of the Domain Name Server (DNS) and/or Primary Domain Control (PDC) server, and any other technical information as specified in the Technology Requirements.

4. *Performance System:* All required performance reporting to MBDA shall be conducted via MBDA's Web portal. Within 30 days after the award, each designated MBOC employee shall have satisfactorily completed the Performance Training Course (PSTC). This course is available on-line at www.mbda.gov. Only those persons responsible for entering Performance data shall be given passwords and access to enter Performance data into the system. Only trained staff shall enter data into the Performance system. There shall be no ''sharing'' of passwords on the Performance system. Although not required, MBDA encourages input of information on a daily basis.

5. *Data Integrity:* The recipient shall take the necessary steps to ensure that all data entered into MBDA systems, and systems operated by the recipient in support of the award, or by any employee of the recipient is accurate and timely.

Performance Measures

In accordance with 15 CFR Part 14 and 15 CFR Part 24, selected recipients must manage and monitor functions and activities supported by the financial award. Recipients will be required to use program performance measures in semi-annual reports to MBDA, and to provide an end-of-year assessment of the accomplishments of the project using these measures. Applicants are required to set forth semi-annual performance goals and compare the goals to actual performance. The performance of an MBOC will be judged based on an assessment of how well the

MBOC has accomplished its quantitative goals and objectives, as well as a management assessment of operational quality through onsite visits or other internal reviews. The applicant is required to submit, as part of its plan under the Techniques and Methodologies evaluation criteria, its proposed levels of performance on a quarterly basis. During the award, the recipient must submit a detailed semi-annual narrative report and year end narrative report that analyzes actual achievements (*i.e.*, success stories, *e.g.* significant contract awards to MBEs, significant financial transactions to MBEs, facilitation of a major merger or acquisition, etc., variances from planned versus actual goals, and reasons for not meeting goals, etc.), as they compare to the year-to-date (YTD) goal levels.

A recipient's performance will be evaluated on its accomplishment of the Performance Measures set forth below. The overall year to date performance takes into account all the performance indicators and is based on the following rating system:

110 to 90 points equals Excellent
80 to 89 points equals Commendable
70 to 79 points equals Satisfactory
Below 70 is Unsatisfactory performance

MBOC program performance must include the following mandatory quantitative measures. Recipients who do not meet their goals will be assessed points in a proportional amount equal to the numerical goals actually achieved for the rating period.

1. Establish the committee and subcommittees of the MBOC and hold at least twelve (12) regularly scheduled meetings. (5 points)

2. Dollar value of contracting opportunities disseminated. The applicant must propose a reasonable dollar value based on its defined market. (15 points)

3. Dollar value of actual contracts awarded to MBEs. (25 points)

The applicant must propose a reasonable dollar value based on its defined market. The MBOC operator must report, on a semi-annual basis, that the dollar value of contracts awarded to MBE's was the result of MBOC activity or intervention. This report must include the contract award dates, the parties to the contracts, and the dollar value of the contracts. In order to receive credit towards this performance measure, the information in the report must be validated by officials of the awarding entities authorized to commit the awarding entities to binding agreements.

4. Develop Memoranda of Understanding with at least six (6) sources of financing, both debt and equity, for capital development. (10 points)

5. Dollar value of financial transactions completed as a result of MBOC activity or intervention. The applicant must propose a reasonable dollar value based on its defined market. (20 points)

The MBOC operator must report, on a semi-annual basis, that the dollar value of financial transactions awarded to MBEs was the result of MBOC activity or intervention. This report must include the dates of the transactions, the parties to the transactions, and the value of the transactions. In order to receive credit towards this performance measure, the information in the report must be validated by officials of the awarding entities authorized to commit the awarding entities to binding agreements.

6. The number of procurement matches effected through the MBDA's Phoenix-Opportunity database. The applicant must propose a reasonable number of procurement matches based on its defined market. (10 points)

7. The number of Opportunities entered into the Opportunity system. The applicant must propose a reasonable number of Opportunities its organization will enter based on its defined market. (5 points)

8. The number of MBEs entered into the Phoenix system. The applicant must propose a reasonable number of MBEs its organization will enter based on its defined market. (5 points)

In addition to the quantitative goals listed above, a recipient's performance will be measured through a management assessment of operational quality, which refers to the quality and effectiveness of the project operator's day-to-day management of the project. The management assessment reflects MBDA's own evaluation of the overall management of the project based on the agency's onsite or other internal review of the project's operations. The management assessment reflects such areas as proper staffing, timely input to database, appropriate identification of MBDA as a funding source, reporting, record keeping, and any other areas that MBDA may deem relevant to determining the overall quality of the project's operations. (5 points)

Applicants should be mindful of these mandatory quantitative performance measures and must use them when estimating projected project results in their proposals. Applicants are also encouraged to develop and utilize additional performance measures they find meaningful to demonstrate the success of innovative techniques and methodologies. Up to ten (10) Bonus Points will be allowed during the Performance evaluation process for the achievement of any additional measures proposed by the applicant.

Definitions

Dollar Value of Procurements/ Contract Awards: In order for an MBOC to take credit for the dollar value of a contract/procurement award, the award must have been made as a direct result of MBOC membership activity or intervention. For example, MBOC *Member A* is a construction contractor who is building a library. *MBE B* owns a drywall company. Through the efforts of the MBOC, *Member A* awards a contract to *MBE B.* The MBOC may take credit for that contract award.

Dollar Value of Financial Transactions: The dollar value of completed financial transactions represents the total principal value of approved loans, equity financing, acquisitions, mergers, or other binding financial agreements secured by beneficiaries of the MBOC, with the assistance of project staff. For purposes of this performance measure, eligible financial transactions are those which have a specific dollar value, and which increase the revenues of the beneficiary firm, expand its capital base, or produce some other direct commercial benefit for beneficiary firms. In order to be deemed complete, a financial transaction must be documented by an executed and binding agreement between the beneficiary firm and a party capable of performing its obligations under the terms of the agreement. MBDA recognizes that the financial obligations evidenced by these transactions may be long-term, and require performance over an extended period. Consequently it is not necessary that the funds or other financial value specified under the agreements have actually changed hands for the project to receive credit under this performance element, so long as the agreement of the parties is documented and binding.

Funding Availability: MBDA anticipates that approximately $1.2 million will be available in FY 2003 for Federal assistance under this program. Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will MBDA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is canceled because of other agency priorities.

Financial assistance awards under this program may range from $100,000 to $400,000 in Federal funding per year based upon the size of the market and

its need for MBDA resources as evidenced by applicant proposals. Applicants must submit separate project plans and budgets for each year of the three years. The annual awards must have Scopes of Work that are clearly severable and can be easily separated into annual increments of meaningful work which represent solid accomplishments if future funding is not made available to the applicant. Projects will be funded for no more than one year at a time. Funding for subsequent years will be at the sole discretion of the Department of Commerce (DoC) and will depend on satisfactory performance by the recipient and the availability of funds to support the continuation of the project.

Matching Requirements: Cost sharing of at least 25% is required. Additional cost sharing is encouraged. Cost sharing may be in the form of cash, third party in-kind contributions, non-cash applicant contributions or combinations thereof. The share may also be contributed by local, state, and private sector organizations. Some applicants may want to apply jointly for an award to operate an MBOC.

Eligibility Criteria: State or local government entities, American Indian Tribes, colleges, universities, non-profit organizations, and for-profit organizations are eligible to operate MBOCs. Partnerships between the public and private sectors are encouraged.

Award Period: The total project award period is three (3) years. Funding will be provided annually at the discretion of MBDA and the Department of Commerce, and will depend upon satisfactory performance by the recipient and availability of funds to continue the project. Project proposals selected for funding will not be required to compete during subsequent years within the approved project award period. Publication of this notice does not obligate the Department of Commerce or MBDA to award any specific cooperative agreement, or to obligate all or any part of its available funds.

Type of Funding Instrument: Financial assistance awards in the form of cooperative agreements will be used to fund this program.

MBDA's substantial involvement with recipients will include performing the following duties to further the MBOC's objectives:

1. Post-Award Conferences

MBDA will conduct post-award conferences for all new MBOC awards to allow a clear understanding of the program and its objectives. The Agency will:

—Provide an MBOC Handbook, a ''How To'' guidance document.
—Provide an MBDA Directory to the MBOC.
—Orient MBOC staff on administrative and other requirements.
—Provide and explain program reporting requirements and procedures, including OMB circulars and lessons learned from prior Federal audits.
—Identify available local resources that may enhance the capabilities of the MBOC.
—Provide information about MBDA's Phoenix-Opportunity database, and Performance system.

2. Networking, Promoting and Information Exchange

MBDA will provide the following:

—Access to the Portal.
—Promote the exchange of new business opportunity information within the MBDA-funded system.
—Help promote special events at the local, state and national levels in celebration of Minority Enterprise Development Week.

3. Project Monitoring

—Monitor the performance of the MBOC. This may include two (2) onsite reviews by the Regional Office at mutually agreeable times, or other internal reviews, to verify MBOC performance. MBDA will then provide a report of the findings and recommendations for improvement, if appropriate.
—Approve the selection of the MBOC Executive Director.

Application Forms and Package: The Application Package (AP) for this program consists of the following:

Section I—**Federal Register** Notice
Section II—Instruction for Preparing a Budget
Section III—Required Forms

Standard Forms 424, Application for Federal Assistance; 424A, Budget Information—Non-Construction Programs; 424B, Assurances—Non-Construction Programs; and SF–LLL (rev.7–97 if applicable); Department of Commerce Forms, CD–346, Applicant for Funding Assistance (if applicable); CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying shall be used in applying for financial assistance. These forms may be obtained by (1) contacting MBDA as described in the **FOR FURTHER INFORMATION CONTACT** section above; (2) by downloading Standard Forms at *http://www.whitehouse.gov/OMB/grants/index*; and (3) and Department of Commerce forms may be downloaded at *http://www.doc.gov/forms*.

Unsigned applications (SF–424) will be considered non-responsive and will be returned to the applicant. Failure to submit other required information may result in points being deducted from an applicant's score during the evaluation process. MBDA shall not accept any changes, additions, revisions or deletions to competitive applications after the closing date for receiving applications, except through a formal negotiation process.

Project Funding Priorities: MBDA is especially interested in receiving innovative proposals that focus on the following: (1) Identifying and working to eliminate barriers which reduce the access of MBEs to markets and capital; (2) promoting the understanding and use of Electronic Commerce by minority-owned businesses; and (3) increasing the number of contract awards and financial transactions (loans) to minority entrepreneurs.

Proposal Format

The structure of the proposal should contain the following headings, in the following order:

I. Table of Contents
II. Program Narrative
  1. Applicant Capability
  2. Techniques and Methodologies
  3. Community Involvement/Resources
  4. Creativity and Innovation
  5. Proposed Budget/Costs
III. Forms

Pages of the proposal should be numbered consecutively.

Evaluation Criteria: Proposals will be evaluated in a Regional Office based on the following criteria:

(1) *Applicant Capability* (25%). Considers, among other things, knowledge of economic region, *i.e.,* minority business demographics and an assessment of the community's need, prior experience in the minority-owned business community, and relationships (ties) with organizations from which members of the MBOC will be recruited. Includes an assessment of the number, qualifications, experience, and proposed roles of staff who will administer the MBOC program. Qualifications of the chairperson and executive director of the MBOC are particularly important. Position descriptions should be included as part of the application.

(2) *Techniques and Methodologies* (30%). Includes the applicant's plan on how to carry out the MBOC work requirements relating to activities in the eight core areas, the establishment and

operation of the MBOC itself, and the applicant's proposed strategies for overcoming traditional barriers to the success of minority businesses. Each application must contain a detailed work plan that delineates a schedule of proposed activities and milestones for implementing the work requirements. Applicants must also include a description in their proposals showing how they intend to establish a detailed organizational and functional framework for the management, operation, and funding of the MBOC. For example, the applicant should indicate how a program will be developed to recruit members from Federal, state, local and private sector organizations; how the applicant intends to operate the MBOC in terms of meetings; and the establishment of subcommittees and the methodology for the selection of a chairperson and executive director to manage the MBOC on a day-to-day basis. The applicant must indicate how it intends to encourage member organizations to provide opportunities for MBEs and how it will track, validate and verify its performance goals. Each applicant will be rated according to the degree to which the proposed project will serve to reduce disparities. Reviewers will assess each application by examining evidence of community need and the applicant's proposed strategies for overcoming traditional barriers to market access. Disparities in market access must be clearly described and supported. Each application must propose strategies for reaching out to targeted groups. These strategies must tailor MBOC services to meet their specific needs. These strategies must also reflect an understanding of why the barriers exist, and show sensitivity for the learning mechanisms, attitudes, abilities, and customs of the community.

(3) *Community Involvement/ Resources* (20%). Each application will be rated on the overall level of community involvement in the development of the project and the implementation of the proposed project. Reviewers will pay particular attention to the partnerships involved and the strength and diversity of support for the project within the community, and the support for the project's end users. The applicant must provide a detailed discussion relating its plan, identified under Techniques and Methodologies above, to the particular resources and business capabilities of its service area.

Community involvement must include the development of partnerships among the public, non-profit, or private sectors, as an integral part of each project. Partnerships must be clearly defined and mutually beneficial. The commitments (including both cash and in-kind contributions) must be well documented in the application. Partners are defined as organizations that supply cash or in-kind resources and/or play an active role in the planning and implementation of the project.

Reviewers will examine the steps the applicant has taken to involve a wide variety of community stakeholders in the planning of the projects and the plans for ongoing community involvement in the project. Each application should contain evidence of demand from the community, for the services proposed by the project.

(4) *Creativity and Innovation* (15%). Must include unique or novel approaches to solving the problems of minority-owned businesses, the manner in which activities are customized to meet the special economic needs of the MBOC's service area, and creativity in the way the applicant proposes to bring together the diverse components which are necessary for the success of the MBOC.

(5) *Proposed Budget/Costs* (10%). Includes the criteria of reasonableness, allowability, and allocability of costs. Cost sharing proposed by the applicant is also important, particularly if the applicant proposes cost sharing in excess of 25%. Reviewers will analyze the budget in terms of clarity and cost-effectiveness. The proposed budget must be appropriate to the tasks proposed and sufficiently detailed so that reviewers can easily understand the relationship of items in the budget to the product narrative.

An application must receive at least a 70% average score for all five criteria to be considered for funding.

Selection Procedures: Prior to the formal paneling process, each application will receive an initial screening to ensure that all required forms, signatures and other documentation are present. Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. The independent review panel, consisting of at least three federal and/ or non-federal individuals, will review all applications based on the criteria above. Each member of the independent review panel will individually evaluate and rank the proposals and submit its rankings and recommendation to the National Director. The National Director of MBDA then makes a recommendation to the Department of Commerce Grants Officer regarding the funding of applications, taking into account the following selection criteria:

(1) The evaluations and rankings of the independent review panel;

(2) The degree to which applications address MBDA priorities as established under the project funding priorities listed above;

(3) The availability of funds;

(4) The national geographic distribution of the proposed awards. (MBDA anticipates placing at least one MBOC in each of the Agency's five regions. These regions and the states comprising regional makeup are identified at *http://www.mbda.gov*.)

(5) The mixture of large and small economic regions/markets/cities. The amount of funds awarded to each recipient, the scope of programmatic activities, and clarifications and/or correction of errors will be determined and/or conducted in pre-award negotiations between the applicant, the Grants Officer, and the MBDA Program Officer.

Unsuccessful Competition

On occasion, competitive solicitations or competitive panels may produce less than optimum results, such as competition resulting in the receipt of no applications or competition resulting in all unresponsive applications received. If the competition results in the receipt of only one application, it may or may not require additional action from MBDA depending upon the competitive history of the area, the quality of the application received, and the time and cost limits involved. In the event that any or all of these conditions arise, MBDA shall take the most time and cost-effective approach available that is in the best interest of the Government. The approaches available are: (1) Re-competition or (2) Re-Paneling or (3) Negotiation.

Disposition of Unsuccessful Applicants

Upon the execution of an award by the Department of Commerce, MBDA will notify the unsuccessful applicants, in writing, indicating the winner of the award and indicating a 30-day timeframe in which to request return of the unsuccessful applications. Once this 30-day notice has lapsed, MBDA will destroy all unsuccessful applications.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

contained in the **Federal Register** Notice of October 1, 2001 (66 FR 49917) are applicable to this solicitation. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh,* 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is resolved, the Department will provide further information on implementation of Executive Order 13202.

Executive Order 12866. This notice was determined to be not significant for purposes of E.O. 12866.

Regulatory Flexibility Act. Because notice and comment are not required under 5 U.S.C. 553(a)(2), or any other law, for notices relating to public property, loans, grants, benefits or contracts, a Regulatory Flexibility Analysis, 5 U.S.C. 601 *et seq.*, is not required and has not been prepared for this notice.

Paperwork Reduction Act. This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046, and 0605–0001.

Notwithstanding any other provision of 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 Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Dated: September 11, 2002.

Ronald N. Langston,

National Director, Minority Business Development Agency.

[FR Doc. 02–23686 Filed 9–17–02; 8:45 am]

BILLING CODE 3510–21–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

September 13, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 19, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 369–S and 237 are being adjusted for swing and the undoing of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63035, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 13, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on September 19, 2002, you are directed to adjusting the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	369,812 dozen.
369–S [2]	1,054,864 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 369-S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–23711 Filed 9–17–02; 8:45 a.m.

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Tuesday, September 24, 2002, 9:30 a.m.–12:30 p.m.

PLACE: Corporation for National and Community Service, 1201 New York Avenue, NW., 8th Floor, Room 8410, Washington, DC 20525.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Remarks
II. Consideration of Prior Meeting's Minutes
III. Committee Reports and Discussion Concerning Various Items:
  USA Freedom Corps Update
  Reauthorization and 2003 Budget
  2003 Program Guidelines
  Agency's 2003 Performance Goals
IV. Consideration of Grant Approval Delegation
V. Presentations Concerning Homeland Security Grants
  American Red Cross
  Mercy Medical Airlift
  City of Tulsa, Oklahoma
  Others

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person.

CONTACT PERSON FOR MORE INFORMATION: Michele Tennery, Senior Associate, Public Affairs, Corporation for National and Community Service, 8th Floor, Room 8601, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–5000 ext. 125. Fax (202) 565–2784. TDD: (202) 565–2799. e-mail: mtennery@cns.gov.

Dated: September 13, 2002.

Frank R. Trinity,

General Counsel, Corporation for National and Community Service.

[FR Doc. 02–23773 Filed 9–13–02; 4:19 pm]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Advisory Group Meeting of the U.S. Strategic Command

AGENCY: Department of Defense, USSTRATCOM.

ACTION: Notice of closed meeting.

SUMMARY: The Strategic Advisory Group (SAG) will meet in a closed session on 24 and 25 October 2002.

The mission of the SAG is to provide timely advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's war plans. Full development of the topics will require discussion of information classified in accordance with Executive Order 12958, dated April 17, 1995. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact on national defense.

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., section 552b(c), and that, accordingly, this meeting will be closed.

DATES: 24 and 25 October 2002.

ADDRESSES: USSTRATCOM, 901 SAC Boulevard, Suite 1F7, Offutt Air Force Base, NE 68113–6030.

FOR FURTHER INFORMATION CONTACT: Connie Druskis at (402) 294–4102.

SUPPLEMENTARY INFORMATION: Joint Staff POC, Mr. Mahar (703) 614–6465.

Dated: September 11, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–23646 Filed 9–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Office of the Secretary of Defense Performance Review Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense, the Joint staff, the U.S. Mission to the North Atlantic Treaty Organization, the Defense Advance Research Projects Agency, the Defense Commissary Agency, the Defense Security Service, the Defense Security Assistance Agency, the Ballistic Missile Defense Organization, the Defense Field Activities and the U.S. Court of Appeals of the Armed Forces. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board (PRB) provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Secretary of Defense.

EFFECTIVE DATE: July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Sandra Burrell, Executive and Political Personnel Division, Directorate for Personnel and Security, Washington Headquarters Services, Office of the Secretary of Defense, Department of Defense, The Pentagon, (703) 693–8347.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the office of the Secretary of Defense PRB: specific PRB panel assignments will be made from this group. Executives listed will serve a one-year renewable term, effective July 1, 2002.

Office of the Secretary of Defense

Chairperson, Cheryl J. Roby

Joseph Angello, Bruce Bade, Howard Becker, Diana Blundell, Robert Brandewie, Lisa Bronson, Jennifer Buck, Richard Burke, Domenico Cipicchio, Sharon Cooper, Eric J. Coulter, James Dominy, James Evans, Paul Grant, Sara Groeber, Paul Haselbush, Sally Horn, Michael Ioffredo, Anna Johnson-Winegar, Paul Koffsky, Christopher Lamb, John Landon, Douglas Larsen, Ronnie Larson, William Lehr, J. William Leonard, Charles Magrum, Robert Mason, Gail McGinn, James McQuality, Patrick Meehan, Richard Millies, Delores I. Moeller, Get Moy, Margaret Myers, Robert Newberry, Patrick O'Brien, John Osterholz, Barry Pavel, Ronald Richards, Richard Ritter, Vincent P. Roske, Jr., Robert Schmitt, Mark Schneider, Robert Snyder, Caral Spangler, Jean Storck, Janet Thompson, Laura Voelker, Alfred Volkman, Christoper Wright, Michael Yoemans.

Dated: September 11, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–23647 Filed 9–17–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patents. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status. The following patent applications are available for licensing: U.S. Patent Application Serial No. 10/143,176: NON-CHROMATE CONVERSION COATINGS; filed on 7 May 2002 and U.S. Patent Application Serial No. 10/143,173: NON-CHROMATE METAL SURFACE ETCHING SOLUTIONS; filed on 7 May 2002.

DATES: Applications for license may be submitted at any time from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. Theresa A. Baus, Office of Technology Transfer, Naval Undersea Warfare Center, 1176 Howell St., Newport, RI 02841, telephone (401) 832–8728 or e-mail at *bausta@npt.nuwc.navy.mil.*

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: September 6, 2002.

R. E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–23665 Filed 9–17–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 10/061,413 entitled ''Microelectronic Stimulator Array'', Navy Case No. 83,682 and U.S. Patent Application Serial No. 10/123,406 entitled ''A Permanent Retinal Implant Device'', Navy Case No. 83,839.

ADDRESSES: Requests for copies of the patent 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: September 6, 2002.

R. E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–23666 Filed 9–17–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before November 18, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 13, 2002.

Joseph Schubart,

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

Office of Elementary and Secondary Education

Type of Review: New.

Title: Performance Information on Students Served by McKinney-Vento Homeless Education Subgrants.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 51.

Burden Hours: 612.

Abstract: State Education Agencies will submit information for a single State application to the Department to be able to receive formula grant funds under Title X Part C of the No Child Left Behind Act of 2001. The purpose of the Education for Homeless Children and Youth Program is to improve the educational outcomes for children and youth in homeless situations. The statues for this program are designed to ensure all homeless children and youth have equal access to public school education and for States and local educational agencies (LEAs) to review and revise policies and regulations to remove barriers to enrolling, attendance and academic achievement.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2157. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–23692 Filed 9–17–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 18, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early

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

Dated: September 12, 2002.

Joseph Schubart,

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

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Application for Grants under Disability and Rehabilitation Research.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Individuals or household; Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,000.

Burden Hours: 20,000.

Abstract: The National Institute on Disability and Rehabilitation Research (NIDRR) provides grants for research and related activities in Rehabilitation of Individuals with disabilities. The grant application package contains program profiles, standard forms, program regulations, sample rating forms, and transmitting instructions. Applications are primarily institutions of higher education, but may also include hospitals, State Rehabilitation education agencies and voluntary and profit organizations.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2060. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the e-mail address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–23669 Filed 9–17–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.022A]

Office of Postsecondary Education; Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Program: The Doctoral Dissertation Research Abroad Fellowship Program provides opportunities for graduate students to engage in full-time dissertation research abroad in modern foreign languages and area studies.

For FY 2003 the competition for new awards focuses on projects designed to meet the priority we describe in the PRIORITY section of this application notice.

Eligible Applicants: Institutions of higher education.

Applications Available: September 25, 2002.

Deadline for Transmittal of Applications: October 25, 2002.

Estimated Available Funds: The Administration has requested $4,580,000 for this program for FY 2003. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $15,000–$60,000.

Estimated Average Size of Fellowship Awards: $32,028.

Estimated Number of Awards: 143 fellowships.

Note: The Department is not bound by any estimates in this notice.

Project Period: The institutional project period is 18 months beginning July 1, 2003. Students may request funding for 6–12 months.

Page Limit: The application narrative is where the student applicant addresses the selection criteria that reviewers use to evaluate the application. The student must limit the narrative to the equivalent of no more than 10 pages, and the references to the equivalent of no more than 2 pages, using the following standards:

- A ''page'' is 8.5″ × 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.
- 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 the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the references. However, you must include all of the application narrative in responding to the selection criteria included.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, 86, 97, 98, and 99; and (b) The regulations for this program in 34 CFR part 662.

Priority

This competition focuses on projects designed to meet a priority in the regulations for this program (34 CFR 662.21(d)).

Absolute Priority: A research project that focuses on one or more of the following areas: Africa, East Asia, Southeast Asia and the Pacific, South Asia, the Near East, East Central Europe and Eurasia, and the Western Hemisphere (Canada, Central and South America, Mexico, and the Caribbean). Please note that applications that

propose projects focused on Western Europe will not be funded.

Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Instructions for Transmittal of Applications

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

In FY 2003, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program—CFDA 84.022A is one of the programs included in the pilot project.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents, except transcripts, electronically, including the Application for Federal Assistance (ED 424), Budget Information-Non-Construction Programs (ED 524), and all necessary assurances and certifications. Transcripts must be mailed separately.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.

2. Make sure that the institution's Authorizing Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right hand corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the Fulbright-Hays Doctoral Dissertation Research Abroad Program at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Note 1: An applicant institution of higher education must submit all of its applications in either electronic or paper format. Students interested in funding under this program must check with the applicant institution to see which method of submission the institution will use.

Note 2: Please note that due to the Department's end of the fiscal year close out activities, the e-APPLICATION system will be unavailable on October 1. It will become available for users again on Wednesday, October 2.

For Applications and Further Information Contact: The application for this program is available at: *http://www.ed.gov/offices/OPE/HEP/iegps/ddrap.html.*

Karla Ver Bryck Block, International Education and Graduate Programs Service, U.S. Department of Education, 1990 K Street, NW., Suite 6000, Washington, DC 20006–8521. Telephone: (202) 502–7632 or via Internet: *karla.verbryckblock@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.

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 Applications and Further Information Contact.*

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the 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 Adobe Portable Document Format (PDF) on the Internet at the following site: *http://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 (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

You may also view this document in PDF at the following site: *http://www.ed.gov/offices/OPE/HEP/iegps/.*

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 on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 22 U.S.C. 2452(b)(6).

Dated: September 13, 2002

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 02–23720 Filed 9–17–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.019A]

Office of Postsecondary Education; Fulbright-Hays Faculty Research Abroad Fellowship Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Program: The Faculty Research Abroad Fellowship Program offers opportunities to faculty members of institutions of higher education for research and study in modern foreign languages and area studies.

For FY 2003 the competition for new awards focuses on projects designed to meet the priority we describe in the PRIORITY section of this application notice.

Eligible Applicants: Institutions of higher education.

Applications Available: September 25, 2002.

Deadline for Transmittal of Applications: October 25, 2002.

Estimated Available Funds: The Administration has requested $1,575,000 for this program for FY 2003. The actual level of funding, if any, depends on final congressional action.

However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $20,000—$100,000.

Estimated Average Size of Fellowship Awards: $47,727.

Estimated Number of Awards: 33 fellowships.

Note: The Department is not bound by any estimates in this notice.

Project Period: The institutional project period is 18 months beginning July 1, 2003. Faculty may request funding for 3—12 months.

Page Limit: The application narrative is where the faculty applicant addresses the selection criteria that reviewers use to evaluate the application. The faculty applicant must limit the narrative to the equivalent of no more than 10 pages, and the references to the equivalent of no more than 2 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.

• 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 the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the references. However, you must include all of the application narrative in responding to the selection criteria.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85, 86, 97, 98, and 99; and (b) The regulations for this program in 34 CFR part 663.

Priority

This competition focuses on projects designed to meet a priority in the regulations for this program (34 CFR 663.21(d)), which provides that priorities may be established for certain geographic areas in addition to certain other categories.

Absolute Priority

A research project that focuses on one or more of the following areas: Africa, East Asia, Southeast Asia and the Pacific, South Asia, the Near East, East Central Europe and Eurasia, and the Western Hemisphere (Canada, Central and South America, Mexico, and the Caribbean). Please note that applications that propose projects focused on Western Europe will not be funded.

Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Instructions for Transmittal of Applications

Note: Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

Pilot Project for Electronic Submission of Applications

In FY 2003, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Fulbright-Hays Faculty Research Abroad Fellowship Program—CFDA 84.019A is one of the programs included in the pilot project.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

• Your participation is voluntary.

• You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.

• You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.

2. Make sure that the institution's Authorizing Representative signs this form.

3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right hand corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260–1349.

• We may request that you give us original signatures on all other forms at a later date.

• You may access the electronic grant application for the Fulbright-Hays Faculty Research Abroad Program at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Note 1: An applicant institution of higher education must submit all of its applications in either electronic or paper format. Faculty interested in funding under this program must check with the applicant institution to see which method of submission the institution will use.

Note 2: Please note that due to the Department's end of the fiscal year close out activities, the e-APPLICATION system will be unavailable October 1. It will become available for users again on Wednesday, October 2.

For Applications and Further Information Contact: The application for this program is available at: *http://www.ed.gov/offices/OPE/HEP/iegps/fra.html.*

Eliza Washington or Amy Wilson, International Education and Graduate Programs Service, U.S. Department of Education, 1990 K Street, NW., Suite 6000, Washington, DC 20006–8521. Telephone: (202) 502–7700 or via Internet: *fra@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.

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Program Authority: 22 U.S.C. 2452(b)(6).

Dated: September 13, 2002.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 02–23721 Filed 9–17–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.RP96–389–066]

Columbia Gulf Transmission Company; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 30, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective August 20, 2002:

Fifth Revised Sheet No. 316

Columbia Gulf states on July 19, 2002, it made a filing with the Commission seeking approval of a Rate Schedule FTS–1 negotiated rate agreement with TotalFinaElf Gas and Power North America, Inc. (TotalFinaElf) in Docket No. RP96–389–060. On July 23, 2002, Columbia Gulf made a similar filing with the Commission seeking approval of a Rate Schedule FTS–1 negotiated rate Agreement with Cinergy Marketing & Trading, L. P. (Cinergy) in Docket No. RP96–389–062. On August 20, 2002, the Commission issued an order approving the TotalFinaElf service agreement effective November 1, 2002. On August 21, 2002, the Commission issued an order approving the Cinergy service agreement effective July 1, 2002. Both orders directed Columbia Gulf to file a tariff sheet identifying the agreements as non-conforming agreements in compliance with Section 154.112(b) of the Commission's regulations. The instant filing is being made to comply with Section 154.112(b) and reference the non-conforming service agreements in its Volume No. 1 tariff.

Columbia Gulf states that copies of its filing is being served to each of the parties listed on the service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23182 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–067]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

September 5, 2002.

Take notice that on August 30, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following contract for disclosure of a negotiated rate transaction:

FTS–1 Service Agreement No. 73341 between Columbia Gulf Transmission Company and FPL Energy Power Marketing, Inc. dated August 27, 2002

Transportation service is to commence November 1, 2002 under the agreement.

Columbia Gulf states that copies of the filing it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23186 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–478–001]

Midwestern Gas Transmission Company; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 30, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing to

become part of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective October 1, 2002:

Original Sheet No. 262.01
First Revised Sheet No. 263

Midwestern states that the purpose of this filing is to revise Midwestern's tariff to incorporate the administrative timeline for non-biddable releases, NAESB Standard 5.3.2, Version 1.5. This standard was inadvertently omitted from Midwestern's compliance filing, Docket No. RP02–478–000, to incorporate NAESB Version 1.5 Standards into its tariff. Midwestern is also making a housekeeping change to incorporate NAESB Standard 5.3.3 into its tariff.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23165 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–363–001]

North Baja Pipeline, LLC; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on September 3, 2002, North Baja Pipeline, LLC (NBP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 6 and Original Sheet No. 7.

NBP states that these sheets are being filed to reflect the implementation of two negotiated rate agreements in compliance with the Commission's January 16, 2002 Order issuing NBP a certificate of public convenience and necessity. NBP requests that these tariff sheets be made effective September 1, 2002.

NBP further states that a copy of this filing has been served on NBP's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23174 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–403–003]

Northern Border Pipeline Company; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 30, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 286B.01, Original Sheet No. 286B.02, and Fifth Revised Sheet No. 286C, to become effective October 1, 2002.

Northern Border states that the purpose of this filing is to revise Northern Border's tariff in compliance with the Commission Order dated May 16, 2002 at Docket No. RP00–403, *et al.* (99 FERC ¶ 61,183), to incorporate the administrative timeline for non-biddable releases, NAESB Standard 5.3.2, Version 1.5. This standard was inadvertently omitted from Northern Border's compliance tariff filing at Docket No. RP00–403–002, that was made on July 17, 2002. Northern Border also proposes a housekeeping revision to update NAESB Standard 5.3.3 in its tariff.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23183 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–019]

Questar Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on September 3, 2002, Questar Pipeline Company's (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract for Dominion Exploration & Production, Inc. as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.* The Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar states that a copy of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Dated:

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–23173 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–084]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 26, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective July 1, 2002:

First Revised Sheet No. 605

REGT states that the purpose of this filing is to reflect the implementation of an amendment to an existing negotiated rate contract which became effective as of July 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. 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. 02–23166 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–085]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 29, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective October 1, 2002:

Original Sheet No. 651
Sheet Nos. 652–699

REGT states that the purpose of this filing is to describe the provisions of a new negotiated rate transaction.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23176 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–439–001]

Reliant Energy Gas Transmission Company; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 26, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective on October 1, 2002:

Substitute Fourth Revised Sheet No. 435

REGT states that the purpose of this filing is to comply with the Commission's Order No. 587-O.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 11, 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. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. 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. 02–23184 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–088]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Virginia Power Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23157 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–091]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Virginia Power Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23158 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–094]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Tractebel Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23159 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–097]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Tractebel Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23160 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–100]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Duke Energy Trading and Marketing L.L.C. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23161 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–103]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 30, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Pawtucket Power Associates Limited Partnership. Tennessee requests that the Commission grant such approval effective October 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23162 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–089]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Virginia Power Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23167 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–092]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Virginia Power Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23168 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–095]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Tractebel Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23169 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–098]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Duke Energy Trading and Marketing L.L.C. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23170 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–101]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Duke Energy Trading and Marketing L.L.C. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23171 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–104]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 30, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Capitol District Energy Center Cogeneration Associates. Tennessee requests that the Commission grant such approval effective October 1, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23172 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–090]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Virginia Power Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23177 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–093]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Tractebel Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23178 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–096]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Tractebel Energy Marketing, Inc. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov using* the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23179 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–099]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Duke Energy Trading and Marketing L.L.C. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23180 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–102]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

September 5, 2002.

Take notice that on August 28, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee's filing requests that the Commission approve a negotiated rate arrangement between Tennessee and Duke Energy Trading and Marketing L.L.C. Tennessee requests that the Commission grant such approval effective September 28, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. 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. 02–23181 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–512–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 2002.

Take notice that on August 29, 2002, Trailblazer Pipeline Company (Trailblazer) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets, to be effective October 1, 2002.

Trailblazer states that the purpose of the filing is to implement the Annual Charge Adjustment (ACA) surcharge necessary for Trailblazer to recover from its customers annual charges assessed to it by the Commission pursuant to Part 382 of the Commission's Regulations. Trailblazer states that its new ACA rates will be $0.0021 per Dth.

Trailblazer states that copies of its filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *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. 02–23175 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–051]

TransColorado Gas Transmission Company; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 30, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fiftieth Revised Sheet No. 21 and Twenty-Third Revised Sheet No. 22A, to be effective September 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000. The tendered tariff sheets propose to revise TransColorado's Tariff to reflect one amended negotiated-rate contract with Sempra Energy Trading.

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

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23163 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP95–197–042 and RP97–71–034]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 30, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of to its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets listed in Appendix A attached to the filing.

Transco states that the purpose of the limited Natural Gas Act (NGA) Section 4 filing is to revise its rates in Docket No. RP01–245–000 to implement the roll-in of the costs of Transco's Leidy Line and Southern expansion projects as authorized by the various Commission orders in Transco's Docket Nos. RP95–197 and RP97–71 proceeding, and to comply with the Commission's finding in that proceeding under NGA Section 5 that Transco must unbundle the cost of its Emergency Eminence Storage Withdrawal Service.

Transco states that copies of the filing are being mailed to all parties in Docket Nos. RP95–197, RP97–71 and RP01–245–000 and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23156 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–245–012 and RP01–253–004]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 5, 2002.

Take notice that on August 28, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets listed on Appendix A attached to the filing contains the enumeration and effective dates of the revised tariff sheets.

Transco states that the purpose of this compliance filing is to implement the rates and tariff provisions reflected in the pro forma tariff sheets included in Appendix D and Appendix E to the Stipulation and Agreement in Docket Nos. RP01–245–000, *et al.* (Agreement), approved by the Commission on July 23, 2002 (July 23 Order). Transco states that pursuant to the terms of the Article XI of the Agreement, the Agreement will become effective on October 1, 2002, and has proposed that the tariff sheets submitted in this compliance filing be made effective October 1,2002. In addition to the foregoing, included in the filing are tariff sheets proposed to be effective August 1, 2002, which reflect the settlement rates approved by the July 23 Order updated to incorporate the approved Great Plains Volumetric Surcharge tracking rate change filing made by Transco on June 28, 2002 and approved by the Commission on July 24, 2002 in Docket No. RP02–371–000, subsequent to the April 12, 2002 filing of the Agreement.

Transco states that copies of the filing are being mailed to all parties in Docket Nos. RP01–245–000, *et al.*, and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659. The Commission strongly encourages electronic filings. *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. 02–23164 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2358–000]

Visteon Systems, L.L.C.; Notice of Issuance of Order

September 12, 2002.

Visteon Systems, Inc. (Visteon) submitted an application that requested authority to engage in the sale of energy, capacity and certain ancillary services at market-based rates. Visteon also requested waiver of various Commission regulations. In particular, Visteon requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Visteon.

On September 3, 2002, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-East, 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 Visteon 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, Visteon 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 Visteon, 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 Visteon'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 October 3, 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*.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23657 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–112–000, *et al.*]

Aquila, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

September 10, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Aquila, Inc. and MidAmerican Energy Company

[Docket No. EC02–112–000]

Take notice that on September 3, 2002, Aquila, Inc. (Aquila) and MidAmerican Energy Company (MidAmerican) , filed an application with the Federal Energy Regulatory Commission (Commission) pursuant to Section 203 of the Federal Power Act, 16 U.S.C. '' 824b, and Part 33 of the Commission regulations, 18 CFR Part 33. Aquila and MidAmerican request authorization and approval of the sale by Aquila and the purchase by MidAmerican of a portion of an

electrical transmission line and related assets located in the state of Missouri.

Comment Date: September 24, 2002.

2. CMS Marketing, Services and Trading Company

[Docket No. ER96–2350–023]

Take notice that on September 5, 2002 CMS Marketing, Services and Trading Company tendered for filing, an updated market power analysis in accordance with the order issued by the Federal Energy Regulatory Commission dated September 6, 1996, in Docket No. ER96-2350–000.

Comment Date: September 26, 2002.

3. Casco Bay Energy Company, LLC

[Docket No. ER99–3822–002]

Take notice that on September 4, 2002, Casco Bay Energy Company, LLC (Casco Bay) tendered for filing its triennial market power analysis in compliance with the Commission Order granting it market-based rate authority in Docket No. ER99–3882–000. Copies of this filing were served upon those parties on the official service list.

Comment Date: September 25, 2002.

4. Nevada Power Company

[Docket No. ER02–1913–003]

Take notice that on September 5, 2002, Nevada Power Company tendered for filing its compliance filing making the changes to the unexecuted Interconnection and Operation Agreement between Nevada Power Company and GenWest, LLC required by the Commission's July 19, 2002 Order in this docket. This compliance filing makes corrections to the previous compliance filing submitted on August 16, 2002.

Comment Date: September 26, 2002.

5. American Electric Power Service Corporation

[Docket No. ER02–2028–002]

Take notice that on September 4, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing amended Firm Point-to-Point Transmission (PTP) Service Agreements and Long-Term Firm PTP Service Agreement Specifications for AEPSC's Wholesale Power Merchant Organization and Constellation Power Source, Inc. in compliance with the Order on Complaint and Accepting Service Agreements for Filing as Modified, Docket No. ER02–2028–000, issued August 5, 2002, 100 FERC ¶ 61,157 (2002). The agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of June 1, 2002.

A copy of the filing was served upon the customers and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: September 25, 2002.

6. New England Power Pool

[Docket No. ER02–2532–000]

Take notice that on August 30, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include Hess Energy Power & Gas Company, LLC (HEPGCO), and to terminate the memberships of Connecticut Energy Cooperative, Inc. (the Co-op). The Participants Committee requests a September 1, 2002 effective date for commencement of participation in NEPOOL by HEPGCO and for the termination of the Co-op.

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

Comment Date: September 20, 2002.

7. Sierra Pacific Power Company Nevada Power Company

[Docket No. ER02–2533–000]

Take notice that on September 3, 2002 Sierra Pacific Power Company and Nevada Power Company (jointly Operating Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreements (Service Agreements) with NRG Power Marketing, Inc. and IDACORP Energy L.P. for Non-Firm and Short-Term Firm Point-to-Point Transmission Service under Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, Open Access Transmission Tariff (Tariff):

The Operating Companies are filing the executed Service Agreement with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. The Operating Companies also submitted revised Sheet No. 195A (Attachment E) to the Tariff, which is an updated list of current subscribers. The Operating Companies request waiver of the Commission's notice requirements to permit an effective date of September 3, 2002 for Attachment E, and to allow the Service Agreement to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment Date: September 20, 2002.

8. Ameren Services Company

[Docket No. ER02–2534–000]

Take notice that on August 30, 2002, Ameren Services Company (ASC) tendered for filing an unexecuted Long-Term Firm Point-to-Point Service Agreement between ASC and Illinois Municipal Electric Agency. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to the Illinois Municipal Electric Agency pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: September 20, 2002.

9. Public Service Company of New Mexico

[Docket No. ER02–2535–000]

Take notice that on August 30, 2002, Public Service Company of New Mexico (PNM) submitted for filing a Letter Agreement, dated April 11, 2002, regarding the Interconnection Agreement (Agreement) between Southwestern Public Service Company (SPS) and PNM (the Parties) dated November 23, 1982. The Letter Agreement clarifies the understanding of the Parties with respect to new interconnections to the transmission facilities that interconnect the two utilities, as such new interconnections relate to prior letter agreements regarding that same topic. The Agreement (as amended from time to time) and prior letter agreements are already on file at the FERC as PNM Rate Schedule FERC No. 53, but have not been conformed to the FERC ''Identification and Numbering'' requirements set forth in FERC Order No. 614, and PNM has therefore included a first revised copy of the Agreement with proper ''Identification and Numbering'' in this filing and has incorporated the April 11, 2002 Letter Agreement as a part thereof. PNM is requesting waiver of the Commission's notice requirements in order to allow the Letter Agreement to become effective retroactively to April 11, 2002, its execution date, and that the entire Interconnection Agreement be designated PNM First Revised Rate Schedule FERC No. 53. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to SPS, the New Mexico Public Regulation Commission, and the New Mexico Attorney General.

Comment Date: September 20, 2002.

10. Bank of America, N.A.

[Docket No. ER02–2536–000]

Take notice that on September 3, 2002, Bank of America, N.A. (Bank of America) petitioned the Federal Energy Regulatory Commission (Commission) for acceptance of Bank of America Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Bank of America intends to engage in wholesale electric power and energy transactions as a marketer and a broker. Bank of America is not in the business of generating or transmitting electric power. Bank of America is a national banking association formed under the laws of the United States of America with its principal executive offices in Charlotte, North Carolina. In transactions where Bank of America sells electric power it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party.

Bank of America requests that the Commission confirm that the Bank of America may provide capital to public utilities in the course of its banking activities, without raising concerns that it would thereby acquire control over the management or operations of those utilities. Bank of America requests that the Commission confirm that the:

Applicant is authorized to acquire the securities of a public utility in the course of its banking business provided that such acquisition confers upon applicant no right to control the management or operation of such public utility, other than pursuant to customary creditors' rights or to the rights provided by the United States Bankruptcy Code.

Bank of America would remain subject to the strictures of Section 203(a) that would require Commission approval to acquire control over any public utility.

Comment Date: September 24, 2002.

11. Virginia Electric and Power Company

[Docket No. ER02–2537–000]

Take notice that Virginia Electric and Power Company (the Dominion Virginia Power or Company) on September 4, 2002, respectfully tendered a Retail Energy Imbalance Service Schedule 4R under the Company's Open Access Transmission Tariff (OATT).

The Company respectfully requests that the Commission waive the 60-day notice requirement and allow the proposed schedule to be effective January 1, 2002. Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, Washington Gas Energy Services, Old Mill Power Company, Dominion Retail, Inc., AES New Energy, Inc., and Old Dominion Electric Cooperative.

Comment Date: September 25, 2002.

12. West Penn Power Company

[Docket No. ER02–2538–000]

Take notice that on September 3, 2002, Allegheny Energy Service Corporation on behalf of West Penn Power Company (West Penn), submitted Notices of Cancellation of Second Revised Service Agreement No. 1, Service Agreement No. 3, and First Revised Service Agreement No. 10 (including their Amendments and Supplements) with Allegheny Electric Cooperative, Inc., the Borough of Mont Alto, and the Borough of Chambersburg, respectively (Customers), customers under West Penn's Rate Schedule designated as FERC Electric Tariff, First Revised Volume No. 1.

West Penn has requested that the cancellations be effective December 1, 2002. Copies of the filing have been provided to the Customers and to the Pennsylvania Public Utility Commission.

Comment Date: September 24, 2002.

13. PJM Interconnection, L.L.C.

[Docket No. ER02–2539–000]

Take notice that on August 30, 2002, PJM Interconnection, L.L.C. (PJM) filed amendments to Schedules 4 and 7 of the Reliability Agreement Among Load Serving Entitles in the PJM Control Area 9RAA) to change the basis for determining the Forecast Pool Requirement and Accounted-For Obligations in the PJM control area.

Copies of this filing were served upon all partied to the RAA and each state electric utility regulatory commission in the PJM region.

Comment Date: September 20, 2002.

14. PJM Interconnection, L.L.C.

[Docket No. ER02–2540–000]

Take notice that on September 4, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing an executed interconnection service agreements between PJM and Repauno Products, LLC (Repauno).

PJM requests a waiver of the Commission's 60-day notice requirement to permit the effective date agreed to by the parties. Copies of this filing were served upon Repauno and the state regulatory commissions within the PJM region.

Comment Date: September 25, 2002.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02-2541–000]

Take notice that on September 5, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing revisions to the Midwest ISO Open Access Transmission Tariff (OATT) seeking authorization to amend credit-related financial practices contained in the OATT. The Midwest ISO has requested an effective date of November 4, 2002.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 with respect to service on all required parties. The Midwest ISO has electronically served a copy of this filing 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. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: September 26, 2002.

16. California Independent System Operator Corporation

[Docket No. ER02–2542–000]

Take notice that, on September 5, 2002, the California Independent System Operator Corporation (ISO) submitted an informational filing as to the ISO's updated transmission Access Charge rates effective as of September 1, 2002.

The ISO states that this filing has been served upon the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, the Participating Transmission Owners, and upon all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff. In addition, the ISO is posting the filing on the ISO Home Page.

Comment Date: September 26, 2002.

17. Virginia Electric and Power Company

[Docket No. ER02–2543–000]

Take notice that Virginia Electric and Power Company (the Company) on September 6, 2002, respectfully tendered for filing the following Long-

Term Service Agreement between Virginia Electric and Power Company and the Town of Enfield, North Carolina, designated as Long-Term Service Agreement No. 6, under the Company's Wholesale Cost-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 7, effective on January 16, 2002.

The Company respectfully requests that the Agreement become effective on the effective date of January 1, 2003. Copies of the filing were served upon the Town of Enfield, North Carolina, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: September 27, 2002.

18. CED Rock Springs, Inc.

[Docket No. ER02–2546–000]

Take notice that on September 6, 2002, CED Rock Springs, Inc. (CEDRS) tendered for filing an application for an order accepting its FERC Electric Rate Schedule No. 1, granting certain blanket approvals, including the authority to sell electricity at market-base rates, and waiving certain regulations of the Commission. CEDRS also filed its FERC Electric Rate Schedule No. 1, seeking an effective date of October 10, 2002.

Comment Date: September 27, 2002.

19. Central Hudson Gas & Electric Corporation

[Docket Nos. OA97–470–065, ER97–1523–070 and ER97–4234–063]

Take notice that on September 3, 2002, Niagara Mohawk Power Corporation, a National Grid Company and one of the Member Systems of the Transmission Owners Committee of the Energy Association of the State of New York (the Member Systems) submitted a Compliance Filing with the Federal Energy Regulatory Commission (Commission) pursuant to the Commission's Opinion No. 457 issued in these proceedings on July 2, 2002 and the Commission's Notice of Extension of Time issued in these proceedings on August 15, 2002.

Comment Date: September 24, 2002

20. CED Rock Springs, Inc., Rock Springs Generation, LLC

[Docket No. OA02–9–000]

Take notice that on August 30, 2002, CED Rock Springs, Inc. and Rock Springs Generation, LLC filed with the Federal Energy Regulatory Commission (Commission) a request for expedited order confirming compliance with Order Nos. 888 and 889, or in the alternative, for partial waiver of Order No. 889.

Rock Springs Generation Facility (to be located in Rock Springs, Maryland) will be interconnected to the PJM Transmission System. Testing of the Facility is scheduled to commence mid-October 2002 so that commercial operation can occur in December 2002.

Comment Date: September 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23661 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–379–000 and CP02–380–000]

Southern LNG, Inc.; Notice of Intent to Prepare an Environmental Assessment for the Proposed Elba Island Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

September 12, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Elba Island Expansion Project involving construction and operation of facilities by Southern LNG, Inc. (Southern LNG) on Elba Island in Chatham County, Georgia.[1] The project involves expanding the storage and sendout capacity of Southern LNG's existing liquefied natural gas (LNG) marine import terminal (Elba Island Terminal). This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Southern LNG proposes in Docket No. CP02–380–000: (1) To expand the LNG storage capacity; (2) to increase the sustainable daily sendout capability to 806 million standard cubic feet per day (MMscfd) and its peaking capacity to 1,215 MMscfd; and (3) to accommodate two LNG tankers at one time. Southern LNG seeks authorization to construct and operate the following new facilities at its existing Elba Island Terminal:

- LNG ship unloading slip with two berths, each with unloading arms. The South Dock with three liquid arms and one vapor arm and the North Dock with two liquid and one vapor arm, mooring and breasting dolphins, fendering systems, and support trestles;
- relocation of three existing unloading arms from existing dock to the new North Dock for use as two liquid arms and one vapor arm;
- 1,000,000-barrel (160,000 cubic meters or 3.5 billion cubic feet of gas equivalent) double-wall LNG storage tank with spill containment dike;
- two 360 MMscfd first-stage (booster) LNG pumps;
- 20 MMscfd recondenser;
- three 180 MMscfd second-stage LNG pumps;
- three 180 MMscfd submerged combustion vaporizers;
- desuperheaters;
- motor control center;
- two dock control buildings;
- compressor shelter; and
- associated hazard detection, control, and prevention systems, cryogenic piping and insulation, electrical and instrumentation systems, and a road from the existing site to the new slip.

In addition, in Docket No. CP02–379–000, Southern LNG requests Section 3 authorization under Subpart B of Part 153 of the Commission's regulations for siting of natural gas import facilities.

Land Requirements for Construction

The Elba Island Terminal occupies about 140 fenced acres on the 840-acre

[1] Southern LNG's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

Elba Island in an estuary of the Savannah River. The proposed facilities would affect about 87.7 acres of land of which about 37.3 acres would be permanently changed with new structures or open water. Construction of the LNG tank, vaporizers, pumps, and associated facilities (including temporary construction laydown, office trailers, and worker parking) would affect about 35.5 acres of previously disturbed land within the existing fenced terminal site. The majority of the land impacted would be associated with the proposed marine slip. Construction of the slip would affect about 52.2 acres of land above mean low water of which about 35.3 acres would be permanently changed (31.2 acres would lie below mean low water). All construction would occur on Elba Island which Southern LNG owns.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources, fisheries, and wetlands
- vegetation and wildlife
- air quality and noise
- land use
- cultural resources
- endangered and threatened species
- public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Southern LNG. This preliminary list of issues may be changed based on your comments and our analysis.

- Approximately 118 LNG tankers per year transiting the Savannah River to the terminal by the year 2006.
- Environmental and technical issues associated with the construction and operation of a LNG ship unloading facility, a 1,000,000 barrel LNG storage tank, and the expansion of the terminal's sendout capacity.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Gas 1, PJ–11.1.
- Reference Docket Nos. CP02–379–000 and CP02–380–000.
- Mail your comments so that they will be received in Washington, DC on or before October 15, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Public Scoping Meeting

In addition to or in lieu of sending written comments, we invite you to attend a public scoping meeting that we will conduct in the project area. The location and time for this meeting is listed below:

Tuesday, October 1, 2002, 7:00 pm.

Radisson Hotel Historic Savannah, 411 West Bay Street, Savannah, Georgia, (912) 790–7000.

The public scoping meeting is designed to provide state and local agencies, interested groups, affected landowners, and the general public with more detailed information and another opportunity to offer your comments on the proposed project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of the meeting will be made so that your comments will be accurately recorded.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

385.214) (see appendix 1).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. By this notice we are also asking governmental agencies, especially those in appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet website (*www.ferc.gov*) using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502–8222, TTY (202) 502–8659. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23656 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically. The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File for New License

September 5, 2002.

a. *Type of Filing*: Notice of Intent to File an Application for New License.

b. *Project No.*: 516–000.

c. *Date Filed*: August 30, 2002.

d. *Submitted By*: South Carolina Electric and Gas Company—current licensee.

e. *Name of Project*: Saluda Hydroelectric Project.

f. *Location*: On the Saluda River in Lexington, Newberry, Richland, and Saluda Counties, near the City of Columbia, South Carolina. The project does not occupy federal lands.

g. *Filed Pursuant to*: Section 15 of the Federal Power Act.

h. *Licensee Contact*: James M. Landreth, Vice President, Fossil & Hydro Operations, South Carolina Electric & Gas Co., 111 Research Drive, Columbia, SC 29203, jlandreth@scana.com, (803) 217–7224.

i. *FERC Contact*: John Hannula, *john.hannula@ferc.gov*, (202) 502–8917.

j. *Effective date of current license*: June 1, 1984.

k. *Expiration date of current license*: August 31, 2007.

l. *Description of the Project*: The project consists of the following existing facilities: (1) A 211-foot-high, 7,800-foot-long earth-filled dam with a concrete spillway equipped with four 37.5-foot-long by 25-foot-high Taintor gates, and two 44-foot-long by 32-foot-high Taintor gates; (2) the 41-mile-long, 48,800-acre Lake Murray with a full pool elevation of 360 feet msl; (3) four 223-foot-high, 30-foot-diameter intake towers, and one 223-foot-high, 60-foot-diameter intake tower; (4) four 986-foot-long, 16-inch-diameter penstocks; (5) a 718-foot-long arch shaped conduit containing two 14-foot-diameter penstocks through a 42-foot-long bifurcation, to a 365-foot-long, 20-foot-diameter penstock; (6) a powerhouse containing five generating units with a total installed capacity of 207.3 MW; and (7) appurtenant facilities.

m. Each application for a license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 2005.

n. A copy of this filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 208–1659. A copy is also available for inspection and reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–23185 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application to Amend License and Soliciting Comments, Motions To Intervene, and Protests

September 12, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters

b. *Project No.:* 1494–243

c. *Date Filed:* July 15, 2002

d. *Applicant:* Grand River Dam Authority

e. *Name of Project:* Pensacola Dam

f. *Location:* The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The project does not occupy any Federal or tribal lands.

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

h. *Applicant Contact:* Mary Von Drehle or Teresa Hicks, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301. Phone: (918) 256–5545.

i. *FERC Contact:* Steve Naugle, *steven.naugle@ferc.gov*, 202–502–6061.

j. *Deadline for filing comments and or motions:* October 15, 2002.

All documents (original and eight copies) should be filed with Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. Please reference ''Pensacola Project, FERC Project No.1494–243'' on any comments or motions filed.

k. *Description of the Application:* The applicant requests Commission approval to permit the reconfiguration

of docks at the Thunder Bay Marina previously approved pursuant to a Commission order dated July 25, 1996. The reconfigured docks would consist of a total of eight docks containing 209 boat slips as originally approved.

l. *Locations of the Application:* This filing is available for review at the Commission in the Public Reference Room or may viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Mail Stop PJ–12.1, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23658 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 12, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No:* 2210–079.

c. *Date Filed:* August 16, 2002.

d. *Applicant:* Appalachian Power Company (APC).

e. *Name of Project:* Smith Mountain.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § § 791 (a) 825(r) and § § 799 and 801.

h. *Applicant Contact:* Frank M. Simms, Fossil and Hydro Operations, American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223–2918.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Heather Campbell at (202) 219–3097, or e-mail address: *heather.campbell@ferc.gov*.

j. *Deadline for filing comments and or motions:* October 18, 2002.

All documents (original and eight copies) should be filed with: Ms. Magalie Roman Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Please include the project number (P–2210–079) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* APC is requesting Commission approval to permit Winding Waters Partnership (permittee) to expand an existing dock at The Rise Condominiums by installing and operating 8 stationary covered boat slips within the project boundary. The total number of slips would be 25. No dredging is planned as part of this proposal

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room , located at 888 First Street, NE, Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23659 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, ProtestS, and Comments

September 12, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit

b. *Project No.:* 12260–000

c. *Date filed:* June 21, 2002

d. *Applicant:* Universal Electric Power Corporation

e. *Name and Location of Project:* The Foster Joseph Sayers Dam Hydroelectric Project would be located on Bald Eagle Creek in Centre County, Pennsylvania. The project would occupy lands administered by the U.S. Army Corps of Engineers.

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

g. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535-7115.

h. *FERC Contact:* Elizabeth Jones (202) 502–8246

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

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12260–000) on any comments or motions filed.

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

j. *Description of Project:* The proposed run-of-river project would utilize the Corps' existing Foster Joseph Sayers Dam and would consist of: (1) Two proposed 37-inch steel penstocks approximately 100 feet long, (2) a proposed powerhouse containing two turbines with a total installed capacity of 1.15 MW, (3) a proposed switchyard, (4) approximately 400 feet of proposed 14.7kV transmission line, and (5) appurtenant facilities.

The project would have an estimated annual generation of 7 GWH.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202)

502–8222 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address listed in item g.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding.

Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', sbull I11''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE,Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02–23660 Filed 9–17–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0047; FRL–7191–8]

Solicitation of Applications for Lead-Based Paint Program Grants; Notice of Availability of Funds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's intent to enter into cooperative agreements with States, Territories, Indian Tribes, Intertribal Consortia, and the District of Columbia to provide financial assistance for purposes of developing and carrying out EPA-authorized lead-based paint programs. These programs and this financial assistance are authorized by section 404 of the Toxic Substances Control Act (TSCA). In order for Indian Tribes and Intertribal Consortia to be eligible for financial assistance under this program, the Indian Tribes must demonstrate that they meet the criteria for treatment as a State. The total amount of FY2002 funding to be awarded to States, Territories, Indian Tribes, Intertribal Consortia, and the District of Columbia for development and implementation of EPA-authorized lead-based paint programs, and for EPA's direct implementation of such programs for those States, Territories, the District of Columbia, and Indian Tribes that do not have EPA-authorized programs is $12.5 million. For FY2002, the Agency is allocating up to $1.0 million of these funds for the Indian Tribes and Intertribal Consortia.

DATES: Applications submitted by States, Territories, and the District of Columbia for financial assistance, identified by docket ID number OPPT–2002–0047, must be received by EPA Regional Staff on or before October 18, 2002. Applications submitted by Indian Tribes and Intertribal Consortia for financial assistance, identified by docket ID number OPPT–2002–0047, must be received by EPA Regional Staff on or before November 4, 2002.

ADDRESSES: Applications may be submitted by mail, or in some instances electronically. Please follow the detailed instructions provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0047 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: The appropriate Regional Lead Coordinator listed in Unit I. of the **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to States, Territories, eligible Indian Tribes, and Intertribal Consortia, and the District of Columbia to develop and carry out authorized lead-based paint programs under TSCA section 404. In order for Indian Tribes and Intertribal Consortia to be eligible for financial assistance under this program, the Indian Tribes or Intertribal Consortia must demonstrate that they meet the criteria at 40 CFR 35.693 for treatment as a State. In order for Intertribal Consortia to be eligible for financial assistance under TSCA section 404(g) they must also meet the requirements at 40 CFR 35.504. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

You may also access this document on the Home Page for the Office of Pollution Prevention and Toxics at http://www.epa.gov/opptintr/lead. Select ''What's New.'' Hard copies of this document are available from the appropriate Regional Primary Lead person listed in Unit I.C.

C. How and to Whom Do I Submit an Application?

You may submit an application through the mail, or in some instances electronically, to the Regional Lead Coordinator in the appropriate EPA Regional Office. The mailing addresses and contact telephone numbers for these Offices are listed below. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPPT–2002–0047 in the subject line on the first page of your response.

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont), Regional Contact—James Bryson, EPA Region I, One Congress St., Suite 1100 (CPT), Boston, MA 02114–0203; telephone number: (617) 918–1524; e-mail address: bryson.jamesm@epa.gov.

Region II: (New York, New Jersey, Puerto Rico, and the Virgin Islands), Regional Contact—Lou Bevilacqua, EPA Region II (MS-225), 2890 Woodbridge Ave., Edison, NJ 08837; telephone number: (732) 321–6671; e-mail address: bevilacqua.lou@epa.gov.

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia), Regional Contact—Roberta Riccio, EPA Region III (3WC33), 1650 Arch St., Philadelphia, PA 19103–2029; telephone number: (215) 814–3107; e-mail address: riccio.roberta@epa.gov.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Regional Contact—Rose Anne Rudd, EPA Region IV, 61 Forsyth St., SW., Atlanta, GA 30303; telephone number: (404) 562–8998; e-mail address: rudd.roseanne@epa.gov.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), Regional Contact—David Turpin, EPA Region V (DT-8J), 77 W. Jackson Blvd., Chicago, IL 60604; telephone number: (312) 886–7836; e-mail address: turpin.david@epa.gov.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), Regional Contact—Jeffrey Robinson, EPA Region VI, 1445 Ross Ave., 12th Floor, Dallas, TX 75202; telephone number: (214) 665–7577; e-mail address: robinson.jeffrey@epa.gov.

Region VII: (Iowa, Kansas, Missouri, and Nebraska), Regional Contact—Tom

Hogan, EPA Region VII, ARTD/RALI, 901 North 5th, Kansas City, KS 66101; telephone number: (913) 551–7684; e-mail address: hogan.thomas@epa.gov.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), Regional Contact—David Combs, EPA Region VIII, 999 18th St., Suite 300, Denver, CO 80202; telephone number: (303) 312–6021; e-mail address: combs.dave@epa.gov.

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, and Guam), Regional Contact—Paula Bisson, PA Region IX (CMD-4-2), 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 947–4184; e-mail address: bisson.paula@epa.gov.

Region X: (Alaska, Idaho, Oregon, and Washington), Regional Contact—Barbara Ross, EPA Region X, Solid Waste and Toxics Unit (WCM-128), 1200 Sixth Ave., Seattle, WA 98101; telephone number: (206) 553–1985; e-mail address: ross.barbara@epa.gov.

D. What Should I Consider as I Prepare My Application for EPA?

1. *Purpose and scope.* EPA awards non-matching cooperative agreements under TSCA section 404(g) to States, Territories, eligible Indian Tribes and Intertribal Consortia, and the District of Columbia to develop and carry out authorized lead-based paint programs. The term ''Territory'' includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other Territory or possession of the United States. Also, hereinafter, the term ''States'' includes the ''District of Columbia.'' In the past, recipients of the grants have used the funds to assist in program development and prepare for program authorization. EPA intends to continue to support the development and authorization of these programs as well as implementation of authorized programs as budget constraints allow. This notice has been developed based on the knowledge that some States have received authorization and that several States and Indian Tribes are continuing to develop their programs. This notice addresses the criteria EPA will consider when evaluating the grant proposals submitted to the Agency.

Under TSCA section 404, EPA authorizes States, Territories, and eligible Indian Tribes and Intertribal Consortia to administer lead-based paint programs in lieu of the corresponding Federal program. These lead-based paint programs are intended to reduce the incidence of childhood lead poisoning by ensuring that individuals conducting lead-based paint activities are properly trained and certified and that renovation contractors provide lead-hazard information to building owners and residents. EPA issued regulations to establish these lead-based paint programs under the authority of TSCA sections 402 and 406.

In 40 CFR part 745, subpart L, EPA promulgated regulations pursuant to TSCA section 402 that cover the training and certification of individuals engaged in lead-based paint activities. In 40 CFR part 745, subpart E, EPA issued regulations pursuant to TSCA section 406. The regulation requires persons performing renovation in residential housing to provide a lead hazard information pamphlet to the owner and occupant of the housing prior to renovation. The procedures for authorizing States, Territories, and eligible Indian Tribes and Intertribal Consortia to implement these lead-based paint programs are found at 40 CFR part 745, subpart Q.

2. *Goal and objectives.* Pursuant to TSCA Title IV, EPA encourages States, Territories, Indian Tribes, and Intertribal Consortia to seek authorization of their own lead-based paint programs. EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands. EPA therefore recommends that parties seek funding through the TSCA Title IV, section 404(g) assistance program, which is now being implemented to assist with development and implementation of lead-based paint programs.

Since 1994, EPA has been offering financial assistance under TSCA section 404(g) in the form of cooperative agreements without matching-fund requirements. In the upcoming funding cycle, the Agency will continue to work with eligible applicants to develop cooperative agreements consistent with the objectives critical to the ultimate success of implementation of a national lead program, with the emphasis on State, Territorial, Indian Tribal, and Intertribal Consortia programs. Although EPA's goal is to have authorized programs in all States and a large number of Territories, and on a large number of Indian Tribal lands, the Agency, and Congress anticipated that there would be a number of States, Territories, and Indian Tribes that would not seek program authorization. Consistent with authority granted in the Agency's FY 1998 Appropriation Act (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, Public Law 105–65, 111 Stat. 1374)., and the provisions contained within, EPA is authorized to use TSCA section 404(g) funds to implement a Federal lead-based paint program for non-authorized States, Territories, and Indian Tribes. See 40 CFR 35.116 and 40 CFR 35.516. Note: Where the Agency has direct implementation responsibilities, EPA cannot provide financial assistance under this grant program to non-authorized States, Indian Tribes, or Intertribal Consortia, or Territories to assist the Agency in implementing and enforcing a Federal program under TSCA section 404(h).

The cooperative agreements must be used to develop and implement authorized programs. States, Territories, Indian Tribes, and Intertribal Consortia that do not have authorized programs may receive cooperative agreement funding, but only for the continued development of lead-based paint programs which will meet the requirements of TSCA Title IV. To receive continued funding, States, Territories, Indian Tribes, and Intertribal Consortia without an authorized program must be making progress toward an authorized program. Therefore, the Regional Offices, as part of their grant oversight responsibilities, will work with the grantees to determine the appropriate amount of continued funding based upon the amount of developmental work to be completed as the grantee makes progress toward authorization. Eligible parties may utilize this grant support in a way that complements and does not duplicate activities for which they already receive or could receive financial assistance from other Federal sources (i.e., Center for Disease Control (CDC) and U.S. Department of Housing and Urban Development (HUD)).

This TSCA section 404(g) notice is one of two notices that announce the availability of funds for Indian Tribes and Intertribal Consortia conducting various lead-based paint activities. The specific details regarding the other notice is described in a separate **Federal Register** notice, titled *Educational Outreach and Baseline Assessment of Existing Exposure and Risks of Exposure to Lead Poisoning of Native American Children* to be published in an upcoming issue. As stated in this unit, Indian Tribes and Intertribal Consortia, as well as all grantees, will not be awarded funds to fund the same activities from more than one source. Although an Indian Tribe may apply to receive grant funding from both notices, they each have very distinct objectives. The grant program opportunities described in the other notice may serve as precursors to, but not as an equivalents or supplements to, the TSCA section 404(g) lead-based paint

grant program described in this notice. The TSCA section 404(g) lead-based paint grant program for which funding is provided in this notice involves infrastructure development for the anticipated implementation of a lead program and does not include activities (testing for lead in blood, paint, dust, or soil samples, or general outreach and education activities) listed in the other notice.

Under TSCA, authorized lead-based paint training and certification programs are required to collect fees to cover certain costs incurred by the program. These fees are considered ''program income,'' which is defined as ''gross income received by a grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period.'' See 40 CFR 31.25(b). It includes income from fees for services performed by the recipient. Program income generated by activities supported under TSCA section 404(g) grants may include fees that a State, Territory, Indian Tribe, or Intertribal Consortia charges for training, accreditation, certification, licensing or other services performed by the lead training and certification programs, as well as fees that are collected which provide for enforcement of standards and regulations. Consequently, States, Indian Tribes, Intertribal Consortia, and Territories must comply with the rules governing ''program income,'' found at 40 CFR 31.25, and use the funds generated by grant supported activities to assist with program operation costs.

3. *Eligibility*. States, Territories, Indian Tribes, and Intertribal Consortia are eligible to apply for financial assistance under this program if they are either implementing an EPA authorized lead-based paint program pursuant to 40 CFR part 745, subpart Q or developing a lead-based paint program that may be authorized in the future. However, funds will be awarded based upon the progress made by the applicant in developing an acceptable program, including implementing regulations. Failure to make satisfactory progress toward program authorization will result in a State, Territory, Indian Tribe, or Intertribal Consortia not receiving funding. The EPA Regional Offices, as part of their grant oversight responsibilities, will have discretion with respect to determining whether sufficient progress is being made by a given State, Territory, Indian Tribe, and/or Intertribal Consortia toward the development and implementation of a program under TSCA Title IV.

States, Territories, eligible Indian Tribes and Intertribal Consortia may choose to combine TSCA section 404(g) grant funds with other environmental program grants as part of a Performance Partnership Grant (PPG) if the requirements in 40 CFR 35.130 through 35.138 (applies to States) and 40 CFR 35.530 through 35.538 (applies to Indian Tribes and Intertribal Consortia) are adhered to by the grantee.

4. *Authority*. The TSCA Title IV lead-based paint program is a cooperative agreement program administered by EPA under the authority of TSCA section 404(g). Regulations governing these cooperative agreements are found at 40 CFR part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments). Regulations which supplement the EPA general assistance regulations found in 40 CFR part 31 are found at 40 CFR part 35, subpart A and subpart B. Contained within 40 CFR part 35 are specific sections which govern grants and cooperative agreements for the lead-based paint program under TSCA section 404(g); 40 CFR 35.270 through 35.273 (applicable to States, Territories, and the District of Columbia), and 40 CFR 35.690 through 35.693 (applicable to Indian Tribes and Intertribal Consortia). The EPA Regional Offices administer the TSCA section 404(g) cooperative agreements pursuant to a delegation of authority which permits the 10 EPA Regional Administrators to enter into cooperative agreements with eligible States, Territories, Indian Tribes, and Intertribal Consortia.

5. *Activities to be funded*. This notice was developed by EPA's Office of Pollution Prevention and Toxics (OPPT) in cooperation with the Agency's 10 Regional Offices, to describe in more detail the required elements of grant agreements funded under TSCA section 404(g), to describe the eligible activities that will be considered for funding, and to facilitate and support Regional administration of this program. EPA's list of eligible grant activities includes activities that are outlined as required elements of authorized lead-based paint programs, including development of enabling legislation and regulations, enforcement components, as well as other items associated with performance reporting. The elements are specified in 40 CFR 745.325 through 745.327, and are repeated in this unit to assist with the development of applicant work plans.

EPA promulgated its final TSCA section 403 lead hazard standards on December 22, 2000. The hazard standards can be found at 40 CFR part 745, subpart D. The final TSCA section 403 standards also amend the work practice standards for lead-based paint activities found at 40 CFR 745.227. These amendments establish clearance standards for dust, limit reuse of abated soil, add a requirement for interpreting composite dust clearance samples, and change risk assessment and clearance sampling requirements to ensure compatibility between sampling results and the TSCA section 403 hazard standards and section 402 clearance standards. In order to maintain their authorization, authorized State, Territory, Indian Tribe, and Intertribal Consortia lead-based paint activities programs must develop lead hazard and clearance standards that are as protective of human health and the environment as the Federal standards pursuant to 40 CFR 745.324. TSCA section 404(g) funds can be utilized by authorized States, Territories, Indian Tribes, and Intertribal Consortia to develop and/or adopt lead hazard standards and clearance standards for lead in soil, dust, and paint.

Another potential regulatory change should be considered by applicants. Pursuant to TSCA section 402(c)(3), EPA is developing a proposed regulation to govern the conduct of renovation and remodeling activities that create lead-based paint hazards. When promulgated, this regulation will amend the existing TSCA section 402 rules for lead-based paint activities. EPA has developed a model renovators training curriculum, titled *Minimizing Lead-Based Paint Hazards During Renovation, Remodeling, and Repainting*. EPA has made this course available, and is encouraging its use voluntarily until the renovation and remodeling rule is effective. The course is available on the internet at www.epa.gov/lead/rrmodel.htm. In addition, a limited number of printed copies are available from the National Lead Information Center at 1–800–424–LEAD. As in the existing EPA lead-based paint program regulations, States, Territories, Indian Tribes, and Intertribal Consortia will be given the opportunity to seek authorization for a renovation and remodeling activities program. While it will be several years before the regulation is finalized, States, Territories, Indian Tribes, and Intertribal Consortia are encouraged to begin considering the need for such an authorized program in their jurisdiction. TSCA section 404(g) funds can be utilized to assist in this process.

Although the list is not exhaustive, the following activities are eligible for funding under TSCA section 404(g) if they are in support of developing and implementing lead-based paint programs authorized pursuant to 40 CFR

part 745, subpart Q. In addition, the Agency will consider for funding other activities which focus on the development and implementation of authorized programs, such as:

a. Develop and/or adopt lead hazard standards and clearance standards for lead in soil, dust, and paint;

b. Develop and/or enact enabling legislation;

c. Adopt implementing regulations;

d. Develop a system to document certification of inspectors, risk assessors, supervisors, workers and project designers;

e. Adjust or enhance the appropriate infrastructure to accommodate additional program responsibilities;

f. Maintain, improve and/or develop the appropriate infrastructure to successfully administer and enforce a program to ensure that individuals engaged in lead-based paint activities are properly trained, that training programs are accredited, that contractors and firms engaged in such activities are certified;

g. Maintain, improve and/or develop the appropriate infrastructure to successfully administer and enforce a program to ensure that renovation contractors provide lead-hazard information to building owners and residents;

h. Oversee the conduct of certified contractors engaged in lead-based paint activities to ensure that they are conducting their activities according to all applicable regulations, including monitoring inspection, risk assessment, and abatement activities per the authorized program;

i. Oversee accredited training programs per the authorized program;

j. Develop and/or revise as needed, work practice standards for the conduct of lead-based paint activities associated with inspections, risk assessments, and abatement;

k. Monitor compliance with work practice standards or regulations for the conduct of abatement per the authorized program;

l. Implement the timely training of enforcement inspectors;

m. Implement lead-based paint compliance assistance programs;

n. Implement compliance and enforcement inspection sampling techniques;

o. Adopt or develop specific lead-based paint hazard values or standards;

p. Maintain, improve, and/or develop specific procedures and supporting documentation to carry out the enforcement program as described in an authorized program. Typical activities could include development of administrative or civil action procedures and the associated warning letters, notices of noncompliance, or the equivalent;

q. Maintain, improve, and/or develop specific procedures and supporting documentation to carry out the tracking of tips and complaints as described in the authorized program. Typical activities could include development of methods of recording the receipt of complaints, referring lead-based paint complaints to appropriate State or local agencies, tracking the follow-up investigation, tracking any enforcement action associated with the complaint, and notifying citizens of the disposition of their complaints;

r. Prepare a report per 40 CFR 745.327(d) and/or 40 CFR part 31 grant reporting requirements on the applicant's program progress and performance;

s. Develop and/or revise as needed, the lead-based paint programs, including regulations or procedures for decertification, suspension, revocation or modification of approvals and certificates;

t. Develop and/or revise as needed, requirements for the administration of a third-party certification exam;

u. Develop and/or revise as needed, lead-based paint programs' authority to enter, for purposes of inspection, and other relevant enforcement authorities;

v. Develop and/or revise as needed, enforcement remedies, procedures, etc.;

w. Maintain, improve and/or develop techniques for targeting lead-based paint activities' inspections;

x. Improve the timeliness of the processing and follow-up of inspection reports and other information generated through enforcement related activities associated with a lead-based paint program;

y. Enhance the capacity to improve compliance with Lead Program laws, and effectively develop and issue enforcement remedies/responses to violations;

z. Foster activities that would increase the efficiency of an applicant's program to ensure that individuals engaged in lead-based paint activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. These activities could include initiatives to develop local capacity in low-income and rural areas, to promote increased competition in the regulated community through agreements which permit entities recognized by an outside jurisdiction to operate in the grantees jurisdiction (referred to as ''reciprocity''), and similar efforts.

6. *Award and distribution of funds.* EPA currently expects that up to $12.5 million of FY2002 appropriated funds will be available during the FY2002 funding cycle for financial assistance under TSCA section 404(g) for awards to States, Territories, Indian Tribes, and Intertribal Consortia for development and implementation of EPA-authorized lead-based paint programs, and for EPA's direct implementation of programs in States, Territories, and Indian Tribes that do not have EPA authorized programs. Additional TSCA section 404(g) carry-over funds from previous years may also be available from some Regions. For FY2002 funding, the Agency is setting-aside $1 million of the $12.5 million for eligible Indian Tribes and Intertribal Consortia. The remaining $11.5 million plus any available carry-over dollars will be used to fund State, Territorial, and Federal lead-based paint programs. Because of the timing of this notice, it is likely that the section 404(g) funds will be not be awarded until late in FY 2002 or early FY 2003.

a. *Financial assistance to Indian Tribes and Intertribal Consortium.* Each Indian Tribe and Intertribal Consortium that submits a qualifying proposal and is making sufficient progress toward the development and/or implementation of an acceptable lead-based paint program, as determined by the EPA Regional Offices, may receive base funding of $50,000. Though Indian Tribes and Intertribal Consortia may submit qualifying proposals, the award of funds will be based upon the applicant's progress in developing an acceptable program, including implementing regulations and seeking program authorization from EPA. Failure to make satisfactory progress toward program authorization may result in the Indian Tribe or Intertribal Consortium receiving reduced or no funding. The Regional Offices will have the discretion, as part of their grant oversight responsibilities, to determine if the progress being made toward program authorization is sufficient to warrant funding. Further distribution of the Indian Tribal and Intertribal Consortia set-aside funds will be dependent upon the number of applicants, the progress that the grantee is making in developing a program, the status of expenditures of previously awarded funds, population, and the relative strength of the proposal. After the closing date for submittal of Indian Tribe and Intertribal Consortium applications specified in this Notice, EPA Headquarters and Regional Offices will consider each of the proposals, and make decisions about the level of funding to be awarded to each of the

applicants. Following those decisions, EPA Headquarters will transfer the funds to the Regional Offices for award to the Tribes and Intertribal Consortia. Because of the timing of this Notice, it is likely that the FY 2002 section 404(g) funds will not be awarded until FY 2003. Indian Tribal and Intertribal Consortia set-aside funds will not be included in the formula funds pool for States and Territories discussed in Unit I.D.6.b.

b. *Financial assistance to States and Territories.* The process used by EPA for determining award funding levels for States and Territories involves two steps. EPA Headquarters first determines, based on various factors discussed in this unit, the funding level that will be made available to each of the EPA Regional Offices for grantee awards in the respective regions. Following distribution of the funds to the EPA Regional Offices, the Regional Offices then make decisions on the actual funding level to be received by each of the grantees.

The Agency currently uses a three-tiered system to implement step one: The process for deciding the amount of FY2002 cooperative agreement funds that will be distributed to the EPA Regional Offices. This system is designed to provide a base funding level for each qualified applicant and to provide funding for EPA Headquarters and Regional Offices to address direct program implementation responsibilities, while providing funds targeted to areas with the greatest potential lead burden. The system accomplishes this first by providing a discretionary funding set-aside that is used to fund special needs among the grantees; second by providing a base funding set-aside for every potential State and Territorial applicant; and third by providing funding based on a formula that considers the relative lead burden estimated to exist within a State or Territory.

The discretionary funding set-aside involves setting aside $200,000 of funds for each of the 10 EPA Regional Offices (total $2.0 million) for discretionary funding of grantee activities as well as the Regional direct implementation activities. These funds are primarily intended to provide each Region with the means of awarding funds to States and Territories based upon the progress that the grantee is making in developing a program, the overall quality of the program, and/or identified needs. The EPA Regional Offices will also have the discretion to use these dollars to help support the Federal program within the Region.

The base funding set-aside provides a base level of funds for every potential State and Territorial applicant, and where it is necessary for EPA to implement lead-based paint programs in various States and Territories, it provides funds to help support Federal program implementation. Each State that submits a qualifying proposal and is making sufficient progress toward development and implementation of an authorized lead-based paint program may receive a base funding allotment of $100,000. Each Territory that submits a qualifying proposal and is making sufficient progress toward implementation of an acceptable program may receive a $50,000 base. However, base level funding for non-authorized States and Territories may be reduced by the Regional Offices depending on progress made toward the development and/or implementation of acceptable programs. A base level funding of $50,000 for each State and Territory within the given Region which does not submit an application and/or receive a grant under this funding program will be set-aside for EPA use to help implement these programs in non-authorized program areas. The base funds set-aside for non-authorized and/or non-participants in the program are apportioned to EPA Regional and EPA Headquarters Offices based upon direct implementation funding needs, and are intended to ensure that EPA has adequate funds to directly implement the lead-based paint programs in non-authorized States, Territories, and Indian Tribes.

Once base and discretionary funding set-asides are accounted for, the remaining State and Territorial funds are set-aside for distribution through the third tier of the process which involves allocating funds for every potential State and Territorial applicant based on a formula that considers the relative lead burden estimated to exist within States and Territories. States and Territories whose funding requests exceed their base allotments can be given additional funds (''formula funds'') based upon their relative lead burden, and for this exercise, all 50 States, the District of Columbia, and the Territories are used to calculate the formula distribution. Formula funds determined for all non-authorized States and Territories will be set-aside for Federal program implementation, and will also be apportioned to EPA Headquarters Offices and EPA Regional Offices based upon direct implementation funding needs.

In calculating the lead burden for the formula rankings, EPA uses readily available data derived from the 1990 Census of Population and Housing, along with other data from HUD. The formula uses four factors to generate an estimate of the potential lead problem, or ''lead burden,'' in each State and Territory. Two of these factors, the number of housing units with lead-based paint and the number of children under age 6, express the potential magnitude of the lead problem. The remaining two factors, the percentage of young children in poverty and the percentage of low-income housing units with lead-based paint, express the potential severity of the problem.

In determining formula rankings, each State and Territory is scored independently for each factor, and the four individual factor scores for each of the States and Territories are then summed to obtain an overall score for that applicant (a combined factor score). The combined factor scores of all States and Territories applying for formula funds are then summed, and the percentage of the total sum represented by the individual state's or Territory's score is then identified. The applicant's formula allotment is determined by multiplying the total formula funding by the percentage scores of the individual State or Territory.

After funding levels (base, discretionary, and formula set-asides) are determined for each State and Territory, the funds will be pooled for each Region and transferred in bulk to the respective Regional accounts. This distribution includes formula and base set-aside funds determined for all non-authorized States and Territories, which are apportioned to EPA Headquarters and Regional Offices based upon direct implementation funding needs, and used by the Agency to support the administration and enforcement of lead-based paint programs in all non-authorized areas including Indian Tribal areas. Prior to the regional distribution, any formula and base funds set-aside for Federal program implementation which exceed Regional and Headquarters needs will be reapportioned to the regional pots of money using information developed as part of the formula process, for distribution to State and Territories.

Following distribution of the funds to the Regional Office accounts, then the second step in the distribution process occurs; Regional Offices determining the actual funding level to be received by each of the grantees. Funding levels per grantee will be determined by the Regional Offices based on the application submitted and may be decreased or increased based on performance and/or by fiscal need which may include an evaluation of the

progress that the grantee is making in developing a program, an evaluation of the performance of the grantee in implementing a program, an evaluation of expenditures of previously awarded funds, and/or an evaluation of future funding needs.

7. *Submission requirements*. Applicants are directed to 40 CFR part 35, subpart A and subpart B for details on the submission requirements for grant applications. To be considered for funding, each application must include the following components listed in 40 CFR part 35.104 (applicable to States and Territories) or 40 CFR part 35.505 (applicable to Indian Tribes and Intertribal Consortia):

a. Meet the requirements in 40 CFR part 31, subpart B;

b. Include a proposed work plan that meets the requirements in 40 CFR 35.107 (for States and Territories) or 40 CFR 35.507 (for Indian Tribes or Intertribal Consortia); and

c. Specify the environmental program and the amount of funds requested.

For TSCA Title IV section 404(g) funding for Indian Tribes, EPA is soliciting pre-application grant proposals prior to the submittal of the forms and certifications listed in this unit. This pre-application procedure entails the applicants initially submitting only a work plan and a budget. The Agency will use the applicants' work plans and budgets to select programs to be funded under this grant program. After EPA conducts a review of all submitted pre-applications, successful applicants will be contacted and requested to submit the other required documents listed in this unit, such as the ''Application for Federal Assistance'' form (Standard Form 424 or SF424), and the ''Budget Information: Non-Construction Programs'' form (SF424A). In addition, as part of the pre-application, Indian Tribes and/or Intertribal Consortia must include all appropriate information to demonstrate that they meet the criteria at 40 CFR 35.693 for treatment as a State. In order for Intertribal Consortia to be eligible for financial assistance under TSCA section 404(g), they must include all appropriate information to demonstrate that they meet the requirements at 40 CFR 35.504 concerning eligibility.

The following forms and certifications, which are contained in EPA's ''Application Kit for Assistance,'' must be included in all applications:

• Standard Form 424 (Application for Federal Assistance);

• Standard Form 424A (Budget Information-Non-Construction Programs);

• Standard Form 424 B (Assurances-Non-Construction Programs);

• Standard Form LLL (Disclosure of Lobbying Activities);

• Certification Regarding Debarment and Suspension;

• EPA Form 4700–4 (Compliance Review Report Form); and

• Quality Assurance Statement. Application Kits for Assistance are available from any of EPA's 10 Regional Offices.

The following regulations may also be helpful to the applicants as they prepare their financial assistance applications: 40 CFR part 7 (Nondiscrimination in Programs Receiving Federal Assistance from the EPA); 40 CFR part 12 (Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the EPA); 40 CFR part 32 (Government Wide Debarment and Suspension and Government Wide Requirements for Drug-Free Workplace); and 40 CFR part 29 (Intergovernmental Review of EPA Programs and Activities).

Where a single State or Territorial agency has been designated as responsible for coordinating lead activities, EPA encourages that agency to apply for funding under TSCA section 404(g). Coordination of Federally funded lead activities by a single agency is viewed as conducive to achieving integration of lead activities. Early consultations are recommended between prospective applicants and their EPA Regional Offices. Because TSCA grants will be administered at the Regional level, these consultations can be critical to the success of a project or program, and can also contribute substantially to efficient program operations. As part of the work plan, EPA Regional Offices may ask for additional information that will be useful in evaluating the program such as the status of enabling legislation, a detailed line-item budget with sufficient information to clearly justify costs, a list of work products or deliverables, a schedule for their completion and application for program authorization under TSCA, and a description of any financial assistance received from other Federal sources concerning the lead program. Applicants must also include all appropriate information on program income in accordance with 40 CFR 31.25.

Work plans are to be negotiated between applicants and their Regional Offices to ensure that both EPA, State, Territorial, and Tribal priorities are addressed. Any application from a State, Territory, Indian Tribe, or Intertribal Consortium that is not making sufficient progress toward implementation of an acceptable program will not be funded. Also, any applicant proposing the collection of environmental or health related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control. EPA issued final guidance that provides details about EPA's requirements for the preparation of ''quality management plans.'' The finalized document is titled *EPA Requirements for Quality Management Plans* (EPA QA/R-2, March 2001), and is available from each Regional Office.

8. *Application procedures*. Applications must be submitted to the appropriate EPA Regional Office in duplicate; one copy to the Regional lead program branch and the other to the Regional grants management branch. In the case of electronic applications, if allowed by a particular EPA Regional Office, the applicant should follow the procedures required by the Regional Office for submission of electronic applications. After the formula funding calculations are determined and the funds are transferred to the appropriate EPA Regional account, the Regional Office lead contact person will contact the applicant and discuss the final award allotment. EPA Regional Offices may request the applicant to modify its proposed work plan and cooperative agreement based upon the final cooperative agreement allotment. For Tribal applicants, final negotiations for the award of the grants, including the completion of a final work plan and budget, will be completed after the determination of successful applicants.

9. *Reporting*. Pursuant to 40 CFR 31.40, grantees shall, at a minimum, submit annual performance reports to the appropriate EPA Regional Office. These requirements were approved by the Office of Management and Budget (OMB) under OMB Control No. 2030–0020 (General Administrative Requirement for Assistance Programs). The individual Regional Offices may require that these reports be submitted on a quarterly or semiannual basis, but not more frequently than quarterly. The specific information contained within the report will include, at a minimum, a comparison of actual accomplishments to the objectives established for the period. Regional Offices may ask for the inclusion of specific data (e.g., providing to EPA-specific address information associated with the abatement notifications that are received by the grantee) as part of the annual performance report from the grantees which may be useful for Agency reporting under the Government Performance and Results Act. It is

assumed that any data that is requested to be submitted by the grantee will already have been collected pursuant to the grantee's work plan.

II. What Action is the Agency Taking?

EPA is soliciting applications from States, Territories, Indian Tribes, Intertribal Consortia, and the District of Columbia for financial assistance for purposes of developing and carrying out EPA-authorized lead-based paint programs. Approximately $12.5 million is available to fund cooperative agreements with States, Indian Tribes, Intertribal Consortia, Territories, and the District of Columbia for development and implementation of EPA-authorized lead-based paint programs.

III. Statutory Authority and Regulations

EPA is authorized under TSCA section 404(g) to make grants to develop and carry out authorized lead-based paint programs. Regulations governing these cooperative agreements are found at 40 CFR part 31 and part 35.

IV. Submission to Congress and the Comptroller General

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

List of Subjects

Environmental protection, Grants, Lead, Training and accreditation.

Dated: August 19, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–23747 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7379–5]

2002 National Clean Water Act Recognition Awards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; announcement of EPA's 2002 National Clean Water Act Recognition Awards Presentation at the Water Environment Federation's Technical Conference (WEFTEC).

SUMMARY: The U.S. Environmental Protection Agency will recognize municipalities and industries for outstanding and innovative technological achievements in wastewater treatment and pollution abatement programs at the annual Clean Water Act Recognition Awards ceremony during the Water Environment Federation's Technical Conference in Chicago, Illinois. We are recognizing projects or programs in operations and maintenance, biosolids management, pretreatment, storm water management and combined sewer overflow controls. This action also announces the 2002 national awards winners.

DATES: Monday, September 30, 2002, 11:30 a.m. to 1 p.m.

ADDRESSES: The National awards presentation ceremony will be held at McCormick Place Convention Center, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Maria E. Campbell at the U.S. Environmental Protection Agency, Office of Wastewater Management, Municipal Assistance Branch, 1200 Pennsylvania Avenue, NW., (4204M), Washington, DC 20460, (202) 564–0628, or *campbell.maria@epa.gov*.

SUPPLEMENTARY INFORMATION: The National Clean Water Act Recognition Awards program is authorized under sec. 501(a) and (e) of the Clean Water Act. The awards program provides national recognition and encourages public support of programs aimed at protecting the public's health and safety and the nation's water quality. State water pollution control agencies and EPA regional offices make recommendations to headquarters for the national awards. Programs being recognized are in compliance with applicable water quality requirements and have a satisfactory record with respect to environmental quality. Municipalities and industries are recognized for their demonstrated achievements through the following:

(1) Outstanding operations and maintenance practices at publicly owned wastewater treatment facilities;

(2) Exemplary biosolids operating projects, technology development, research and public acceptance efforts;

(3) Municipal implementation and enforcement of local pretreatment programs;

(4) Implementing outstanding, innovative, and cost-effective storm water control; and,

(5) Combined sewer overflow control programs. Winners and categories for the EPA's 2002 National Clean Water Act Recognition Awards program are as follows:

	Category
National Operations and Maintenance Awards:	
First Place:	
City of Dallas Southside WWTP, Dallas, Texas	Large Advanced Plant.
City of Louisville WWTP, Louisville, Colorado	Medium Advanced Plant.
South Berwick Sewer District, South Berwick, Maine	Small Advanced Plant.
Passaic Valley Sewerage Commissioners, Newark, New Jersey	Large Secondary Plant.
City of Hamilton WWTP, Hamilton, Montana	Medium Secondary Plant.
Village of Amherst WWTF, Amherst, Wisconsin	Small Secondary Plant.
Selma-Kingsburg-Fowler County Sanitation District, Kingsburg, California	Large Non-Discharging Plant.
Second Place:	
Lancaster Area Sewer Authority, Susquehanna WPCF, Lancaster, Pennsylvania	Large Advanced Plant.
Dale Mabry Advanced WWTP, Tampa, Florida	Medium Advanced Plant.
Town of Gorham WWTF, Gorham, New York	Small Advanced Plant.
City of Evansville Eastside WWTP, Evansville, Indiana	Large Secondary Plant.
Escatawpa Regional WWTP, Moss Point, Mississippi	Medium Secondary Plant.
Lineville WWTP, Lineville, Iowa	Small Secondary Plant.
City of Sturgis WWTP, Sturgis, South Dakota	Large Non-Discharging Plant.

	Category
National Biosolids Management Awards:	
First Place:	
Merrimack, WWTF, Merrimack, New Hampshire	Large Operating Projects.
City of Hood River WWTP, Hood River, Oregon	Small Operating Projects.
WNET, PBS Affiliate Television Station, New York, New York & U.S. EPA Region III, Water Protection Division, Philadelphia, Pennsylvania.	Public Acceptance (Municipal).
Second Place:	
Roanoke Regional WPCP, Roanoke, Virginia	Large Operating Projects—tie.
City of Largo, Wastewater Reclamation Facility, Clearwater, Florida	Large Operating Projects—tie.
Lower Colorado River Authority, Burnet, Texas	Small Operating Projects.
Honorable Mention:	
City of Port Huron WWTP, Port Huron, Michigan	Small Operating Projects.
National Pretreatment Awards:	
First Place:	
Texarkana Water Utilities, Texarkana, Texas	0–25 Significant Industrial Users (SIUs).
Chesterfield County Utilities Department, Chesterfield County, Virginia	26–100 SIUs.
Sub-regional Operating Group of the Cities of Glendale, Mesa, Phoenix, Scottsdale and Tempe, Arizona.	Greater than 100 SIUs.
Second Place:	
City of Bangor WWTP, Bangor, Maine	0–25 SIUs.
Palo Alto Regional WQCP, Palo Alto, California	26–100 SIUs.
San Antonio Water System, San Antonio, Texas	Greater than 100 SIUs.
National Storm Water Management Awards:	
First Place:	
Greater Battle Creek Area Watershed Management Project, Battle Creek, Springfield and Calhoun County, Michigan.	Municipal.
Second Place:	
Jefferson Parish Department of Environmental Affairs, Jefferson, Louisiana	Municipal.
National Combined Sewer Overflow Control Awards:	
First Place—Tie	
Lincoln Sanitary District, Lincoln, Maine.	
Sanitary District of Michigan City, Michigan City, Indiana.	

Dated: September 12, 2002.

James A. Hanlon,

Director, Office of Wastewater Management.

[FR Doc. 02–23744 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0180; FRL–7198–7]

Chlorpropham Tolerance Reassessment Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice constitutes the Agency's report on the Food Quality Protection Act (FQPA) tolerance reassessment progress and risk management decision for chlorpropham, announces the Agency's decision, and releases the human health risk assessment and related documents supporting this decision to the public. This notice of tolerance reassessment for chlorpropham starts the 30–day public comment period during which the public is invited to submit comments on the Agency's ''Report of the FQPA Tolerance Reassessment Progress and Risk Management Decision (TRED)'' for chlorpropham. If any comment causes the Agency to revise its decision on tolerance reassessment for chlorpropham, the Agency will publish a notice of its amendment in the **Federal Register.** The Agency's reassessment of dietary risk, including public exposure through food and drinking water as required by the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by FQPA, indicate that dietary risk from stored potatoes treated with chlorpropham *per se,* poses no risk concerns within the limits of the reassessed tolerances associated with chlorpropham use on potatoes.

DATES: Comments must be submitted on or before October 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0180 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Gary Mullins, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8044; e-mail address: mullins.gary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the FFDCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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

the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access TRED documents electronically, go directly to the TREDs table on the EPA Office of Pesticide Programs Home Page, at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0180. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0180 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0180. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

This notice constitutes and announces the availability of the chlorpropham TRED. This decision has been developed as part of the public participation process that EPA and the U.S. Department of Agriculture (USDA) are using to involve the public in the reassessment of pesticide tolerances under FFDCA. EPA must review tolerances and tolerance exemptions that were in effect when FQPA was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard of the new law.

In reviewing these tolerances, the Agency must consider, among other things, aggregate risks from non-occupational sources of pesticide exposure, whether there is increased susceptibility to infants and children, and the cumulative effects of pesticides with a common mechanism of toxicity. The tolerances are considered reassessed once the safety finding has been made that aggregate risks are not of concern. A reregistration eligibility decision (RED) was completed for chlorpropham in April 1995, prior to FQPA enactment, and therefore needed an updated assessment to consider the provisions of the Act.

The FQPA requires that the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The reason for consideration of other substances is due to the possibility that low-level exposures to multiple chemical substances that cause a common toxic effect by a common mechanism could lead to the same adverse health effect as would a higher level of exposure to any of the other substances individually. EPA did not perform a cumulative risk assessment as part of this reregistration review of chlorpropham, because the Agency has not determined if there are any other chemical substances that have a mechanism of toxicity common with that of chlorpropham. If EPA identifies other substances that share a common mechanism of toxicity with chlorpropham, then a cumulative risk assessment will be conducted that includes chlorpropham. Further, EPA is in the process of developing criteria for characterizing and testing endocrine disrupting chemicals and plans to implement an Endocrine Disruptor

Screening Program. Chlorpropham will be reevaluated at that time and additional studies may be required.

Additionally, the Agency has evaluated the dietary risk associated with chlorpropham and has determined that provided the Special Local Need (SLN) registration for Easter lily bulb use is amended to reduce the maximum rate of application from 3.99 pounds active ingredient/acre to 2.0 pounds active ingredient/acre, as agreed upon by stakeholders, there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to chlorpropham when considering dietary exposure and all other non-occupational sources of pesticide exposure for which there is reliable information. Therefore, with this mitigation measure in place, 15 tolerances are now considered reassessed and 9 new tolerances will be established for residues of chlorpropham in/on raw agricultural commodities under section 408(q) of the FFDCA.

All registrants of pesticide products containing the active ingredient listed in this document have been sent the appropriate TRED document, and must respond to labeling requirements within 8 months of receipt. In addition, the Agency requests a response to the generic Data Call-In (DCI) letter from technical registrants within 90 days of receipt.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. All comments received within 30 days of publication of this **Federal Register** notice will be considered by the Agency. If any comment significantly impacts this TRED, the Agency will amend its decision by publishing a **Federal Register** notice.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this TRED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides, Tolerances.

Dated: September 10, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–23593 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0192; FRL–7197–9]

Diquat Dibromide; Notice of Availability of Decision on Syngenta's Request to Modify Label Requirements and Closure of 1995 RED

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's intention to modify certain occupational and residential risk mitigation measures that were imposed as a result of the 1995 Reregistration Eligibility Decision (RED) for diquat dibromide. At the end of the comment period, the Agency will consider this action an immediate final decision and the 1995 RED closed, unless adverse comments are received. The Agency conducted this reassessment in response to new data submitted by the technical registrant, Syngenta Crop Protection, Inc. Syngenta has requested the Agency modify certain diquat dibromide label requirements including: Personal protective equipment (PPE), closed loading system for aerial applications, reentry intervals, and allow residential broadcast spray uses.

DATES: Comments, identified by docket identification (ID) number OPP–2002–0192, must be received on or before October 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0192 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Tyler Lane, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–2737; e-mail address: lane.tyler@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining information on the label adjustments for diquat dibromide, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. Copies of the tolerance reassessment decision and supporting risk assessment documents for the reregistration of diquat dibromide may also be accessed at http://www.epa.gov/pesticides/reregistration/diquat_dibromide.htm.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0192. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0192 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0192. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this document.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

In 1995, the Agency published its Reregistration Eligibility Decision (RED) for diquat dibromide. Subsequent to the publication of the 1995 RED, the technical registrant submitted additional data to further refine diquat dibromide worker exposure and residential broadcast spray use scenarios.

Changes to the PPE label requirements of the 1995 RED are based on the submission of additional data from a biomonitoring study of knapsack applications of the closely related chemical paraquat, and a reconsideration of the acute dermal toxicity endpoint. The Agency reevaluated the dermal toxicity endpoint and rendered a decision that the repeated dose dermal toxicity study used for the 1995 RED was not appropriate for use in the risk assessment because the skins of the rats used in the study were compromised. Instead, the Agency extrapolated a dermal toxicity endpoint from a short-term oral study on rabbits.

The Agency has also reevaluated dermal absorption assumptions. Previously, EPA assumed a standard absorption rate of 4.1%, based on a rat dermal absorption study. Syngenta cited a human dermal absorption study estimating a 0.3% dermal absorption rate for diquat dibromide (Feldman RJ and Maibach HI, ''Percutaneous penetration of some pesticides and herbicides in man'' Tox. Appl. Pharm. 28 126–132, 1974). The Agency has relied on data provided by the Feldman-Maibach study for previous risk assessments, and believes the study to be acceptable and the data valid for use in this risk assessment. The use of the dermal absorption factor of 0.3% further refines all aggregate margins of exposure (MOEs) above the target MOE of 100, which would not be of concern to the Agency.

The Agency has evaluated the request to modify the cited label requirements and summarized its assessment in the Occupational Risk Evaluation: ''Assessing Syngenta's Request to Modify Diquat Dibromide Label Requirements,'' dated February 14, 2002. In addition, the ''HED Risk Assessment for Tolerance Reassessment Eligibility Document (TRED),'' March 6, 2002, and the ''Re-characterization of Risk for the Diquat Dibromide Tolerance Reassessment Eligibility Decision (TRED) Based on New Dermal Absorption Data,'' March 13, 2002, were used to aid in the assessment of aggregate risks from residential uses. Any labeling changes are presented in the ''Required Labeling Changes Summary Table,'' which summarizes the labeling requirements for this action. All supporting documents referenced in this document are available in the public docket and at http://www.epa.gov/pesticides/reregistration/diquat_dibromide.htm.

In summary, the Agency expects to change the label requirements of the 1995 RED for worker PPE and residential broadcast spray uses. The following table presents the 1995 RED decisions being reevaluated, the requests to change these requirements made by Syngenta, and the current Agency decisions to amend the 1995 RED:

July 1995 RED	Syngenta Request	Amendments to 1995 RED
All workers required to wear a double layer of clothing (coveralls over long sleeved shirt, long pants), chemical resistant gloves, chemical resistant footwear plus socks, chemical resistant headgear for overhead exposure, and a chemical resistant apron when cleaning equipment, mixing or loading)	Reduced PPE requirements due potential for heat stress to field workers and applicators	All workers must continue to wear protective footwear and coveralls over a single layer of clothes (products with a dermal toxicity of III or IV may reduce PPE to protective footwear and coveralls over short pants and short sleeve shirts). Mixers, loaders and hand applicators must wear chemical resistant gloves, while applicators who are operating closed cab equipment are not required to wear chemical resistant gloves due to MOEs over 1,000.
Respirators for mixing and loading	No respirator requirements for mixing and loading due to potential for heat stress	Respirator requirement for mixer/loaders reduced to a face shield to prevent droplets from entering the eyes, mouth or nose areas
Closed mixing system for aerial applications.	Open mixing system for aerial applications.	Closed mixing/loading requirements remain for aerial applications.
7–Day restricted entry interval (REI) for products used under the Worker Protection Standard (WPS) unless there is no contact with treated surfaces (such as mechanical harvesting)	4–Hour REI for potato desiccation and seed crops	REI reduced to 24 hours for all WPS uses, based on default reentry analysis findings of MOEs between 150 and 1,500 and a toxicity category II for eye irritation
4–Day REI for non-WPS uses other than aquatic and spot treatment at residential sites	REI when spray is dry for non-WPS uses	REI reduced to ''when sprays are dry'' for non-WPS uses, also based on default reentry analysis
Prohibition of broadcast spray applications for homeowner and residential uses	Broadcast spray applications for homeowner and residential uses	Generic data requirements have been fulfilled for residential broadcast spray uses. Broadcast spray applications for homeowner and residential uses for end-use products will be decided on a case-by-case basis upon review of end-use product toxicity, based on short-term exposure and individual risk assessments.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this decision falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' and either reregister products or take other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Chemicals, Aquatic herbicides.

Dated: September 5, 2002.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–23594 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0201; FRL–7194–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0201, must be received on or before October 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0201 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8380; e-mail address: gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to

assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0201. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

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2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

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5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 11, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary intentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Hamphire Chemical Corporation

2E6491

EPA has received a pesticide petition (2E6491) from Hampshire Chemical Corporation, 2 East Spit Brook Road, Nashua, NH 03060 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to amend an existing exemption from the requirement of a tolerance for *N*-acyl sarcosines and sodium *N*-acyl sarcosinates when used at levels not to exceed 10% as inert ingredients (surfactants) in pesticide formulations. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Analytical method*. Hamphire Chemical Corporation is requesting an exemption from the requirement of a tolerance without any numerical limitation; therefore, an analytical method is not required for enforcement purposes for *N*-acyl sarcosines and sodium *N*-acyl sarcosinates.

2. *Magnitude of residues*. Based upon the proposed use as an inert ingredient in glyphosate formulations, dietary (food) exposure to *N*-acyl sarcosines and/or sodium *N*-acyl sarcosinates would not be expected to exceed the theoretical maximum residue concentration (TMRC) of glyphosate to the U.S. population of 0.03 milligrams/kilogram/day (mg/kg/day). Dietary exposure to *N*-acyl sarcosines and/or sodium *N*-acyl sarcosinates at or below these levels would not result in any increases in the normal sarcosine blood serum concentrations found in humans.

B. Toxicological Profile

1. *Acute toxicity*. Acute oral toxicity of sodium *N*-lauroyl sarcosinate was evaluated in male rats. Ten groups of 10 rats per dose received a bolus dose of between 250 mg/kg and 2,500 mg/kg *N*-lauroyl sarcosinate in an aqueous solution. The lethal dose (LD_{50}) was approximately 2,175 mg/kg.

2. *Genotoxicty*. An original study examining the mutagenicity of various cosmetic ingredients reported that *N*-lauroyl sarcosine is not mutagenic in the Ames assay.

3. *Reproductive and developmental toxicity*. Reproductive and developmental effects are not expected to occur through the use of *N*-acyl sarcosines as inert ingredients in pesticide formulations. These substances have a long history of human exposure, they have been used extensively in a variety of consumer products, and no such adverse effects have been reported. Potential reproductive toxicity was evaluated in the chronic oral exposure study, and the authors report no effects on fertility between treated and control rat groups.

4. *Subchronic toxicity*. A 2–year study of the oral toxicity of sodium *N*-lauroyl sarcosinate was conducted on rats. An interim sacrifice 3 months into the study provides toxicity data to support characterization of subchronic toxicity. At the 3–month interval, there were no significant differences in pathology, fertility, mortality, hematology, or weights between experimental animals in any group and control animals. The absence of adverse effects at any dose level up to 90 days supports a no observed adverse effect level (NOAEL) of 1,000 mg/kg day. Subchronic dermal toxicity studies have not been performed on *N*-acyl sarcosinates, though three studies were conducted to evaluate *N*-acyl sarcosinates for potential skin irritation and sensitization. *N*-lauroyl sarcosinate was tested for irritation on rabbits and sensitization on guinea pigs, and *N*-myristoyl sarcosinate was evaluated for potential irritation on rabbits. Rabbits were treated daily over a 14–day period with sodium *N*-lauroyl sarcosinate powder or a 20% w/v solution of sodium *N*-lauroyl sarcosinate. No evidence of dermal toxicity was observed. Guinea pigs were treated by intradermal injection of 0.01% aqueous solution of sodium *N*-lauroyl sarsosinate every other day for a total of 10 injections, followed by 3 weeks of no treatment before receiving a challenge injection. No reactions were observed at any time in these animals and no evidence of toxicity was observed from the injection. A formulation containing 30% sodium *N*-myristoyl sarcosinate in aqueous solution was applied topically to abraded skin of rabbits. Very slight to well-defined erythemia and slight to very slight edema were observed, resulting in a mean dermal irritation score of 1.7. The minimal mean score required for classification of material as a skin irritant is 5.0; therefore, sodium *N*-myristoyl sarcosinate is not a primary skin irritant. Overt dermal toxicity was not observed in any of these studies.

5. *Chronic toxicity*. A 2–year study of the oral toxicity of sodium *N*-lauroyl sarcosinate was conducted on rats. The dose levels were: 100 mg/kg for 6 months, followed by 4,000 mg/kg for the remaining 18 months, and other dose levels throughout the study were: 400 or 1,000 mg/kg/day. After 2 years, a slight but significant pathology was observed in animals that received 1,000 mg/kg throughout the study and 4,000 for the last 18 months of the study. The pathology observed was hyperplasia of the stratified epithelium with excess keratin formation of the cardiac mucosa of the stomach.

6. *Animal metabolism*. *N*-acyl sarcosines and sodium *N*-acyl sarcosinates form a large class of chemical compunds where the acyl group is derived from fatty acids such as lauric, oleic and stearic acid and/or derived from the combined fatty acids of coconut oil. *N*-acyl sarcosine and sodium *N*-acyl sarcosinates are metabolized by humans to sarcosine and the corresponding fatty acids. Sarcosine is ubiquitous in biological materials and is present in such foods as egg yolks, turkey, ham, vegetables, legumes, etc. Sarcosine is reported to be formed from dietary intake of choline and from the metabolism of methione and is rapidly degraded to glycine, which, in addition to its importance as a constituent of protein, plays a significant role in various physiological processes as a prime metabolic source of components of living cells such as glutathione, creatine, purines and serine. The concentration of sarcosine in blood serum of normal human subjects is reported to be 1.59 + 1.08 micromoles per liter.

7. *Endocrine disruption*. There are no reports of any estrogenic or other adverse effects on the endocrine system in humans as a result of the use of *N*-acyl sarcosines and/or sodium *N*-acyl sarconates.

C. Aggregate Exposure

1. *Dietary exposure—food*. Based upon the ubiquitous presence of sarcosine in human tissue and the fact that *N*-acyl sarcosines are readily metabolized to the *N*-acyl sarcosines and their salts, Hamphire Chemical Corporation believes that exposure to this chemical will not pose a dietary risk under any forseable circumstances to the U.S. population, including infants and children. This conclusion is based on the inconsequential increases in dietary exposure resulting from its use as an inert ingredient in glufosinate ammonium, 2,4-D, atrazine and dicamba.

2. *Dietary exposure—drinking water*. Taking into account the proposed use in glufosinate ammonium, 2,4-D, atrazine, and dicamba formulations, Hamphire Chemical Corporation has concluded with reasonable certainty that residues of *N*-acyl sarcosines and/or the sodium *N*-acyl sarcosinates in drinking water

would be negligible, and that no harm will result from aggregate exposure to *N*-acyl sarcosines and/or the sodium *N*-acyl sarcosinates.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA does not have, at this time, available data to determine whether *N*-acyl sarcosines and sodium *N*-acyl sarcosinates have a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, *N*-acyl sarcosines and sodium *N*-acyl sarcosinates do not share common toxic metabolites with other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that *N*-acyl sarcosines and sodium *N*-acyl sarcocinates have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population*. Based on the worst case assumption regarding the dietary risks resulting from exposure to *N*-acyl sarcosines and its salts when used at levels not to exceed 10% of pesticide formulations, residues of *N*-acyl sarcosines and their sodium salts would not be considered to be toxicologically significant. Based on the extensive use of *N*-acyl sarsocines and their sodium salts in various consumer products such as toothpastes, soaps, medicated skin cleaners and medicated shampoos; its physico-chemical properties; the fact that some of these chemicals have been approved for food use applications, and the review of its use, Hamphire Chemical Corporation does not believe that a potential for hazard exists when *N*-acyl sarcosines and their sodium salts are used in accordance with good agricultural practice.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects in calculating a dose level that accounts for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through the use of margin of exposure analysis or through using uncertainty factors (safety) in calculating a dose level that poses no appreciable risk to humans. Due to the ubiquitous nature of sarcosine in human tissue and food, a safety factor analysis in assessing the risk of *N*-acyl sarcosines and sodium *N*-acyl sarcosinates was not used. For the same reason, application of the additional safety factor for infants and children would not be appropriate.

F. International Tolerances

No Codex maximum residue levels have been established for *N*-acyl sarcosines and/or sodium *N*-acyl sarcosinates.

[FR Doc. 02–23748 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7378–9]

Notice of Availability of National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit for Small MS4s

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Proposed NPDES General Permit.

SUMMARY: The Regional Administrator, EPA, Region 9 is proposing to issue an NPDES general permit for storm water discharges from small municipal separate storm sewer systems (MS4s) located in the geographic areas of Region 9 where the NPDES permit program has not been delegated. These areas include the State of Arizona (including Indian lands), Indian lands in the States of California and Nevada, and the U.S. Pacific Island territories. For the State of Arizona (excluding Indian Country lands), the general permit is being proposed jointly by Region 9 and the Director of the Arizona Department of Environmental Quality (ADEQ). NPDES permit coverage for these discharges is required in accordance with the 1987 Amendments to the Clean Water Act (CWA), and final EPA regulations for Phase II storm water discharges (64 FR 68722, December 8, 1999). This Notice announces the availability of the proposed general permit and fact sheet for public comment.

DATES: *Comments:* Comments on the proposed general permit must be received or postmarked no later than October 30, 2002. Within the comment period, interested persons may also request a public hearing pursuant to 40 CFR 124.12 concerning the proposed permit.

Public Meeting: The public meeting will be held on October 16, 2002 at 1 p.m. to 5 p.m.

ADDRESSES: Comments: All public comments or requests for a public hearing must be submitted to Lisa Honor, U.S. EPA, Region 9 (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105. Comments or requests for a public hearing pertaining to MS4s within non-Indian Country lands in Arizona must also be sent to Karyn Moldenhauer, ADEQ, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007.

Public Meeting: The public meeting will be held at the Arizona Industrial Commission Auditorium, 800 West Washington, Phoenix, AZ. A public meeting will be held to provide an opportunity for Region 9 and ADEQ to discuss the proposed permit with potential permittees and other interested persons. Written, but not oral, comments for the official public record will be accepted at the public meeting.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed general permit, contact either Eugene Bromley, EPA, Region 9 (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105 (415) 972–3510, or Karyn Moldenhauer, ADEQ, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007 (602) 771–4449.

SUPPLEMENTARY INFORMATION: Copies of the proposed general permit and fact sheet will be provided upon request and are also available at EPA, Region 9's website at *http://www.epa.gov/region09/water.* Additional information on Phase II of the storm water program is available at EPA's national storm water website at *http://www.epa.gov/NPDES/stormwater.*

Administrative Record: The proposed general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, at the following addresses:

U.S. EPA, Region 9,
CWA Standards and Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105–3901.
Arizona Department of Environmental Quality, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007.

Summary of Terms and Conditions of Proposed General Permit

A. Discharges Covered

The proposed general permit would authorize discharges of storm water

runoff from small MS4s located in the geographic areas of Region 9 where the NPDES permit program has not been delegated. Small MS4s are those serving a population less than 100,000 people, which is the minimum population cutoff for medium and large MS4s (Phase I MS4s). The following four categories of small MS4s are subject to Phase II storm water permitting:

1. MS4s operated by municipalities in urbanized areas as defined by the Census Bureau based on the 1990 or 2000 census.

2. MS4s operated by municipalities which are outside urbanized areas which have a population of 10,000 or more and population density of 1,000/mi^2, and which are designated based on environmental concerns.

3. MS4s which contribute substantial pollutant loads to regulated MS4s through interconnections.

4. MS4s designated by petition.

The definition of a small MS4 in the Phase II regulations includes storm sewers at facilities operated by the Federal or State government (or other public entities such as a sewer or port district) such as military bases, universities, hospitals and prisons. These facilities are also subject to permitting under Phase II of the storm water program. However, the definition does not include facilities which consist of very discrete areas, such as an individual post office.

The geographic areas of coverage of the proposed permit include the State of Arizona (including Indian lands), Indian lands in the States of California and Nevada, and the U.S. Pacific Island territories of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Johnston Atoll, and Midway and Wake Islands. These are the areas within Region 9 where the NPDES permit program has not been delegated to a State, Tribe, or territory.

B. Limitations on Coverage

The proposed general permit includes a number of eligibility restrictions including discharges which may adversely affect endangered or threatened species, historic properties, or essential fish habitat, and discharges which may cause or contribute to exceedances of water quality standards. MS4s which do not meet the eligibility requirements of the proposed general permits are required to submit an individual permit application, or seek coverage under an alternate general permit or as a co-permittee with a Phase I MS4.

C. Deadlines and Permit Application Process

To obtain discharge authorization under the proposed general permit, dischargers must submit a notice of intent (NOI) to Region 9 requesting discharge authorization. The NOI must include basic information about the MS4 (*e.g.*, name and address), and a storm water management program describing the best management practices which the discharger will implement to control pollutants in the discharges in accordance with the requirements of the CWA. NOIs are due by March 10, 2003 for small MS4s in urbanized areas (category 1 as described above in section A). For MS4s in the category 2 as described above in section A, NOIs are due within 180 days of designation. The permitting authority is required to make designation decisions for these MS4s by December 9, 2002. For small MS4s in categories 3 and 4 as described above in section A, NOIs would be due within 180 days of designation; however, no designation deadlines have been established for these MS4s.

D. NPDES Program Delegation to State of Arizona

Region 9 is currently processing an NPDES permit program delegation request from ADEQ. The delegation would cover all discharges within the State of Arizona except for discharges in Indian lands. Region 9 anticipates that program delegation will occur in the fourth quarter of calendar year 2002, possibly prior to final issuance of the proposed general permit. If this occurs, the final permit will be issued by ADEQ for the geographic areas covered by the delegation, and Region 9 will issue the permit for the remaining geographic areas.

If the final general permit is issued by ADEQ, the proposed permit will be modified to include references to ADEQ regulations rather than EPA regulations. Further, for an ADEQ-issued permit, the eligibility restrictions related to endangered species, historic properties and essential fish habitat will be removed since they are based on requirements for Federally-issued permits but not State-issued permits.

E. Storm Water Management Program (SWMP)

The proposed general permit requires that all dischargers covered by the permit develop and implement a SWMP. The SWMP is the means through which dischargers comply with the CWA's requirement to control pollutants in the discharges to the maximum extent practicable (MEP), and comply with the water quality related provisions of the CWA. The Phase II regulations require that the following six minimum pollution control measures be included in SWMPs.

1. Public Education and Outreach on Storm Water Impacts.
2. Public Involvement/Participation.
3. Illicit discharge detection and elimination.
4. Construction Site Storm Water Runoff Control.
5. Post-Construction Storm Water Management in New Development and Redevelopment.
6. Pollution Prevention/Good Housekeeping for Municipal Operations.

The proposed general permit also requires that measurable goals be included with the SWMP. Measurable goals are quantifiable measures of progress in implementing the various BMPs which comprise a SWMP. The measurable goals become permit requirements once the MS4 has requested and has been granted coverage under the general permit. Annual reporting is also required to provide information on the status of the implementation of the SWMP.

F. Permit Appeal Procedures

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with Section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

G. Economic Impact (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency 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 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; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Region 9 has determined that the proposed general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

H. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, *e.g.,* UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law. * * *''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

Region 9 has determined that today's proposal would not result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed general permit will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The proposed general permit also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed permit.

I. Paperwork Reduction Act

Region 9 has reviewed the requirements imposed on regulated facilities resulting from the proposed general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the proposed permit have already been approved in previous submissions made for the NPDES permit program under the provisions of the CWA.

J. Regulatory Flexibility Act

The Agency has determined that the proposed general permit is not subject to the Regulatory Flexibility Act (''RFA''), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. The proposed general permit is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551 (4), (6), and (8).

K. Official Signature

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: September 9, 2002.

Catherine Kuhlman,

Acting Director, Water Division, EPA, Region 9.

[FR Doc. 02–23743 Filed 9–17–02; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Council of Advisors on Science and Technology

AGENCY: Office of Science and Technology Policy.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Council of Advisors on Science andTechnology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA).

DATES AND PLACE: September 30, 2002, Washington, DC. The meeting will be held in the Loy Henderson Conference Room at the Harry S. Truman Building, U.S. Department of State at 2201 C St., NW. Guests must use the entrance on 23rd Street between C and D Streets, NW.

PRE-CLEARANCE: Guests must be pre-cleared to enter the State Department Building. U.S. citizens must provide their name, date of birth and Social Security Number to be pre-cleared into the building and on arrival must present a government-issued ID (*e.g.*, drivers license) at the registration desk. Foreign nationals should provide their name, date of birth and their passport number to be pre-cleared. On arrival, they must present their passport at the registration desk. Guests should provide this pre-clearance information to Cynthia Chase at (202) 456–6010. Pre-clearance information will also be available on the PCAST Web site at: *http://www.ostp.gov/PCAST/pcast.html.*

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The President's Council of Advisors on Science and Technology is tentatively scheduled to meet in open session on Monday, September 30, 2002, at approximately 9 a.m., to discuss the status of the work being conducted by the four PCAST subcommittees: (1) The science and technology of combating terrorism; (2) policies and technologies to improve energy efficiency; (3) the federal investment in science and technology research and development; and (4) demand issues that can speed the deployment of a 21st Century broadband infrastructure. A discussion of relevant international issues with State Department officials is also tentatively scheduled to occur. This session will end at approximately 4:30 p.m.

PUBLIC COMMENTS: There will be a time allocated for the public to speak on any

of the above agenda items. Please make your request for the opportunity to make a public comment five (5) days in advance of the meeting. The time for public comments will be limited to no more than 5 minutes per person. Written comments are welcome at any time prior to or following the meeting. Please notify Stan Sokul, PCAST Executive Director, at (202) 456–6070, or fax your request/comments to (202) 456–6021.

FOR FURTHER INFORMATION CONTACT: For information regarding time, place and agenda, please call Cynthia Chase at (202) 456–6010, prior to 3 p.m. on Friday, September 27, 2002. Information will also be available at the PCAST Web site at: *http://www.ostp.gov/PCAST/pcast.html*. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology was established by Executive Order 13226, on September 30, 2001. The purpose of PCAST is to advise the President on matters of science and technology policy, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Council members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by Dr. John H. Marburger, III, the Director of the Office of Science and Technology Policy, and by E. Floyd Kvamme, a Partner at Kleiner Perkins Caufield & Byers.

Barbara Ann Ferguson,

Assistant Director for Budget and Administration, Office of Science and Technology Policy.

[FR Doc. 02–23712 Filed 9–17–02; 8:45 am]

BILLING CODE 3170–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 11, 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: Written comments should be submitted on or before October 18, 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, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0012.

Title: Application for Additional Time to Construct a Radio Station (Under 47 CFR parts 21, 23 and 25).

Form No.: FCC Form 701.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and state, local, and tribal government.

Number of Respondents: 130.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 260 hours.

Total Annual Cost: $23,000.

Needs and Uses: The FCC Form 701 is being revised to include services authorized under 47 CFR parts 23, and 25 and to include the required FCC Registration Number (FRN) information to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA). The form is used to determine whether to grant the applicant's request for an additional period of time to construct a station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–23644 Filed 9–17–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011819.

Title: Contship/CMA CGM-Hapag-Lloyd Space Charter Agreement.

Parties: Contship Containerlines, CMA CGM, S.A., Hapag-Lloyd Container Linie GmbH.

Synopsis: The agreement authorizes Contship and CMA CGM to charter space to Hapag-Lloyd on the service they operate between the Indian Subcontinent, the Middle East, the Mediterranean, and South East Asia, on the one hand, and the U.S. East Coast, on the other.

Agreement No.: 200599–007.

Title: Oakland/Yusen Terminal Agreement.

Parties: City of Oakland, Board of Port Commissioners, Yusen Terminals, Inc.

Synopsis: This amendment provides for the termination of the agreement on the date selected by the Assignee, but not before the commencement of Non-Exclusive Preferential Use Agreement Between The Port of Oakland and SSA Terminals LLC, FMC Agreement No. 201113–001, nor more than six months after the commencement date of that agreement.

Agreement No.: 201087–002.

Title: Oakland—International Transportation Marine, Terminal Agreement.

Parties: City of Oakland: Board of Port Commissioners, International Transportation Service, Inc.

Synopsis: The proposed amendment permits the use of the premises by ValuShip, Ltd. as an ''other additional user'' under the terms of the basic agreement.

Agreement No.: 201105–002.

Title: Terminal Use Agreement between the Port of Oakland and China Shipping Container Lines.

Parties: Port of Oakland, China Shipping Container Lines (Shanghai).

Synopsis: The amendment permits China Shipping's cargo off-loaded from CMA CGM, S.A.'s vessels to be considered under this agreement for compensation purposes.

Dated: September 13, 2002.

By Order of the Federal Maritime Commission.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–23725 Filed 9–17–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Perfect International Service, 817 Torrance Blvd., #137, Redondo Beach, CA 90277, Lili Gu, Sole Proprietor.

Belstarr International Corp. dba Shipmate, 110–15 71 Road, Unit 1M, Forest Hills, NY 11375, Officer: Clint A. Cabuguas, President (Qualifying Individual).

Affiliated Customs Brokers Ltd., 411 Des Recollets, Montreal, Quebec H2Y 1W3, Officers: Gilles Remillard, President, (Qualifying Individual), Josee Remillard, Vice President.

World Cargo Transport, Inc., 17 Jessica Lane, No. Brunswick, NJ 08902, Officer: William Roach, President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Kelly Group Enterprises Corp., 7812 N.W. 46 Street, Miami, FL 33166, Officer: Oscar Leon, President (Qualifying Individual).

Global Logistics & Customs of Charleston, Inc., 925 Trowman Lane, Mt. Pleasant, SC 29464, Officer: Richard H. Simpson, President (Qualifying Individual).

J.D.S. Freight Consolidators, 8612 N.W. 66 Street, Miami, FL 33166, Officer: Bissoondaye Bachoo (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Overseas Shipping Inc., 7021 Grand National Dr., #110, Orlando, FL 32819, Officer: Kaaren Kazma, Manager (Qualifying Individual).

International Shipping Link, Inc., 2418 W. Devon Avenue, Chicago, IL 60659, Officer: Tariq Shahzad, President (Qualifying Individual).

Dated: September 13, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–23726 Filed 9–17–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4502F.
Name: Cindy Ellen Strong dba Strong Forwarding.
Address: 8311 Pat Blvd., Tampa, FL 33615.
Date Revoked: August 14, 2002.
Reason: Failed to maintain a valid bond.

License Number: 4168F.
Name: Continental Express International, Inc.
Address : 7506 S.W. 26th Court, Davie, FL 33314.
Date Revoked: July 19, 2002.
Reason: Failed to maintain a valid bond.

License Number: 16779F.
Name: EAFF (USA) Inc.
Address: 8840 NW 102nd Street, Medley, FL 33178.
Date Revoked: August 1, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17449N.
Name: Fasttrack Line, Inc.
Address: 201 Sevilla Avenue, Suite 306, Coral Gables, FL 33134.
Date Revoked: August 24, 2002.
Reason: Surrendered license voluntarily.

License Number: 3608NF.
Name: Fujiwara America Incorporated.
Address: 6840 Fort Dent Way, Suite 150, Seattle, WA 98188.
Date Revoked: August 15, 2002.
Reason : Failed to maintain valid bonds.

License Number : 1510F
Name: G.M. Miller & Co., Int'l.
Address: 573 Forbes Blvd., So. San Francisco, CA 94080.
Date Revoked: July 18, 2002.
Reason: Failed to maintain a valid bond.

License Number : 4488F
Name: Interamericas Consulting, Import, Export Inc.
Address: 22716 SW 65th Way, Boca Raton, FL 33428-5303.
Date Revoked: July 12, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2638F.
Name: Intercorp Forwarders, Ltd.
Address: 3516 5th Street, #5G, Jackson Heights, NY 11372.
Date Revoked: August 15, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3555F.
Name: Thomas Griffin International, Inc.
Address: 1411 N. Westshore Blvd., Suite 315, Tampa, FL 33607.
Date Revoked: July 28, 2002.
Reason: Failed to maintain a valid bond.

License Number: 4491F.
Name: VAI Freight Forwarding, Inc.
Address: 8807 NW 23rd Street, Miami, FL 33172.
Date Revoked: August 15, 2002.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–23723 Filed 9–17–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission

pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/Address	Date Reissued
17836N	U.S. Sea Wave Express, Inc., 2931 Plaza Del Amo, #74, Torrance, CA 90503.	August 4, 2002.
13496N	Worldwide Freight Systems, Inc., 1830–C Independence Square, Atlanta, GA 30338.	July 16, 2002.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–23724 Filed 9–17–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank HoldingCompanies

The companies listed in this notice have applied to the Board forapproval, 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 allother applicable statutes and regulations to become a bank holding companyand/or to acquire the assets or the ownership of, control of, or the powerto vote shares of a bank or bank holding company and all of the banks andnonbanking companies owned by the bank holding company, including thecompanies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applicationsmust be received at the Reserve Bank indicated or the offices of the Boardof Governors not later than October 11, 2002.

A. Federal Reserve Bank of Chicago (PhillipJackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois60690–1414:

*1. Fidelity Company,*Dyersville, Iowa; to acquire 100percent of the voting shares of Worthington Bancorporation, Worthington,Iowa, and thereby indirectly acquire State Bank, Worthington, Iowa.

Board of Governors of the Federal Reserve System, September 12,2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–23677 Filed 9–17–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–78]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333.

Proposed Project: Clinician's Management Approach to Children with Pharyngitis—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). The purpose of this study is to determine factors associated with appropriate management of children with pharyngitis. We will characterize office laboratory methods currently used by clinicians to diagnose pharyngitis caused by group A streptococcus (GAS), including rapid antigen detection test (RADT) and throat cultures, and also assess clinicians' treatment approaches for pharyngitis.

The specific goals for this study on children with pharyngitis are:

1. To evaluate current diagnostic methods and treatment approaches for children with pharyngitis by primary care practitioners (pediatricians and family practitioners).

2. To identify factors associated with the use of appropriate laboratory methods by primary care practitioners.

3. To assess the treatment regimen including antimicrobial choices, length and goals of therapy.

4. To determine the impact of full implementation of CLIA on the performance of these tests in office settings.

The investigators will send out an eight-page questionnaire to a sample of 1000 members in each, the American Academy of Pediatrics and the American Academy of Family Practitioners. The survey includes questions on demographics; diagnostic approaches (including types of RADTs and cultures used); logistics in using the diagnostics (such as level of training of the personnel performing the tests, nature of quality control); clinicians' perception and understanding of the RADTs, including published sensitivity and specificity figures; and impact of CLIA (such as any change on the use of RADTs and culture). One month after the first mailing, each individual will be sent a second mailing to maximize the opportunity to complete the survey.

The study population consists of primary care physicians from pediatrics

and family practice. These physicians will be from all areas of the United States and, therefore, from diverse geographic locations. There is no cost to respondents.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hours)	Total burden (in hours)
Physicians	2000	1	12/60	400
Total				400

Dated: September 11, 2002.

Nancy E. Cheal,

Acting Deputy Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–23680 Filed 9–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–27–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Anthropometric Survey of Respirator Users—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

The overall goal of the current project is to develop respirator fit-test panels that accurately represent today's workers who rely on respirators to prevent work-related respiratory illnesses, injuries, and death. The respirator fit-test panels currently used are 25-subject panels, developed by Los Alamos National Laboratory (LANL) based on data from the 1967–1968 survey of U.S. Air Force men and women. The half-mask panel is based on face length and lip length, and the full-facepiece panel is based on face length and face width. These panels were established to represent the working population. The fit of respirators on these subject panels is assumed to be representative of the fit of respirators in the user populations. Respirators designed to fit these panels are also expected to accommodate at least 95 percent of the wearers. However, NIOSH research indicated that the LANL panel for full-facepiece respirators accommodated only 84 percent of current civilian subjects. Sizing data generated by the military for use in fitting respirators has been the normative basis for commercial respirator sizing. Anthropometric data developed for males of military age in the 1950's and 1960's is still in use today. Military populations cannot represent the worker population because of relatively strict anthropometric armed forces entry requirements and height/weight guidelines for troop retention. Personal protective equipment designed and sized for a military population may not provide the same level of protection to civilian workers because of the greater diversity in body size and shape seen in civilian populations. In addition, the demographics of the U.S. population have changed over the last 30 years. Thus, it is necessary to assess and refine the LANL fit-test panels.

This project will first develop an anthropometric database detailing the face-size distributions of respirator users using both traditional measurement methods and three-dimensional (3-D) scanning systems. The source population for this study will be the nationwide respirator users population. The databases will then be used to establish respirator fit-test panels that accurately represent today's workers. Three-dimensional anthropometry has only been available recently, and there is no track record of applying scan data to respirators. This study will provide preliminary data on which to develop methods for sizing and designing respirators and protective eyewear using 3-D scan data.

The subjects will be recruited from various industries in which workers rely on respirators to prevent work-related respiratory illnesses, injuries, and death (e.g., manufacturing, construction, mining, and health care). The project will also address emergency responders to chemical and biological terrorism and other crisis situations. Thus, subjects will also include law enforcement officers, firefighters, and health care workers. Height and weight plus 18 facial dimensions will be measured with traditional methods. A total of 4,000 subjects will be measured using traditional methods. Of those, 1,000 will be scanned using a 3-D head scanner (Cyberware Model 3030/RGB). The populations will be sampled by age, race and gender. A stratified sampling plan is being used with equal sample size in each cell (166). The strata consist of: 3 age groups (18–29, 30–44, and 45–65 years), 2 gender strata (male and female), and 4 ethnic groups (White, African Americans, Hispanic, and Others). The total number of cells is 24. The study will be conducted at five locations nationwide. Although test sites have yet to be determined, data collection is anticipated at two facilities in the western U.S., one in the central portion of the country, and at two locations in the east.

Information generated by this research project will benefit: (1) the participants and workers exposed to various gases and aerosols by improving fit and function of respirators worn during work; and (2) those involved in testing, certifying, and manufacturing respirators to be used in industry, by providing them with fit-test panels that accurately represent today's workers. The panels can be used for evaluating respirator facepiece fit characteristics. The long-term potential benefits are improved respirator quality and performance and increased worker protection. The total burden for this data collection is 1,083 hours.

Respondents	No. of respondents	No. of responses/ respondents	Avg. burden per response (in hours)
Workers (Data Collection #1)	1000	1	20/60
Workers (Data Collection #2)	3000	1	15/60

Dated: September 12, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–23681 Filed 9–17–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0403]

Premarket Notification for Food Contact Substances; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public meeting entitled ''FDA Workshop on the Notification Process for Food Contact Substances.'' The purpose of the meeting is to discuss the food contact notification (FCN) process so that notifiers and/or their representatives, consumer interest groups, and other interested members of the general public can have a better understanding of the FCN process, the information requirements of an FCN, and the common deficiencies to be avoided.

Date and Time: The meeting will be held on Tuesday, October 15, 2002, from 8 a.m. to 5 p.m.

Location: The meeting will be held on the campus of the National Institutes of Health (NIH) in the Lister Hill Center Auditorium, Bldg. 38A, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894. The NIH campus is accessible by the Washington, DC area Metrorail system using the Medical Center station. Attendees must bring photo identification to gain admittance.

Contact: William J. Trotter, Center for Food Safety and Applied Nutrition (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–3088, FAX 202–418–3131, or e-mail: wjt@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In November 1997, Congress passed the Food and Drug Administration Modernization Act (FDAMA) of 1997. Section 309 of FDAMA amended section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) to establish a notification process for food contact substances (FCSs). An FCS is defined as any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have a technical effect in such food (21 U.S.C. 348(h)(6)). Congress intended the notification process to be the primary route for authorizing the use of FCSs (21 U.S.C. 348(h)(3)(A)).

Under section 409(h) of the act, the notification process requires a manufacturer or supplier of an FCS to notify FDA at least 120 days prior to marketing an FCS for a new use. If FDA does not object to the notification within 120 days, the notification becomes effective (21 U.S.C. 348(h)(2)(A)) and the substance may be legally marketed for the requested use by the notifier (21 U.S.C. 348(a)(3)(B)).

In the **Federal Register** of May 21, 2002 (67 FR 35724), FDA published a final rule amending the food additive regulations regarding the premarket notification process for FCSs. The rule became effective on June 20, 2002, and required that a notification for an FCS must contain sufficient scientific information to demonstrate that the FCS that is the subject of the notification is safe for the intended use (21 U.S.C. 348(h)(1)). Since the inception of the FCN process in 1999, FDA has observed that FCNs frequently have deficiencies such that the FCNs are not complete. FDA is having this public meeting to discuss the data requirements for an FCN and the commonly observed deficiencies, and to assist notifiers and/or their representatives in submitting adequate and complete FCNs.

II. Registration and Written Questions

Persons interested in attending the October 15, 2002, meeting should send their registration information (including name, title, business affiliation, address, and telephone and fax numbers) and any questions they wish to have answered at the meeting to the contact person. To expedite processing, fax registration information to 202–418–3131 or e-mail: wjt@cfsan.fda.gov. There will be no registration charges for attending the meeting.

If you need special accommodations due to disability, please notify the contact person by October 1, 2002.

III. Availability of Guidance Documents for FCNs

Administrative, chemistry, and toxicology guidance documents for FCNs are available at http://www.cfsan.fda.gov/dms/opa-notf.html.

IV. Agenda and Goals

FDA will present what information the agency requires in an FCN to make it adequate and complete. Topics to be presented will be broadly divided among the general categories of administrative, chemical, toxicological, and environmental. There will also be workshops in which questions from the audience will be encouraged. The issues to be discussed include the following:

1. Administrative: Guidance document, number of copies of the FCN to submit and where to submit the FCN, common FCN deficiencies, Form 3480, confidentiality, one FCS per FCN, and conditions under which a food additive petition should be submitted;

2. Chemical: Guidance document, common FCN deficiencies, approaches for determining migrant levels in food, estimated daily intake, and cumulative estimated daily intake;

3. Toxicological: Guidance document, common FCN deficiencies, acceptable daily intake, risk assessments, structure activity relationships, and genetic toxicology; and

4. Environmental: Guidance document, common FCN deficiencies, the National Environmental Policy Act as applied to the notification process, categorical exclusions, and requirements for an environmental assessment.

V. Comments

Written comments regarding the agenda may be submitted and should be identified with the docket number found in brackets in the heading of this document. Comments should be annotated and organized to identify the specific issues to which they refer. These comments should be submitted by October 1, 2002, to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments may also be sent to the Dockets Management Branch via e-mail to fdadockets@oc.fda.gov or via the FDA Web site http://www.fda.gov.

Transcripts: An electronic transcript of this meeting will be prepared and 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 20852, approximately 15 working days after the meeting at a cost of $18.25. The transcript of the meeting will also be available for public examination as soon as possible after the meeting, at the Dockets Management Branch (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, as well as on the FDA Office of Food Additive Safety Web site at http://www.cfsan.fda.gov/lrd/foodadd.html.

Dated: September 12, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–23690 Filed 9–17–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0402]

Guidance for Food and Drug Administration Field Offices on ''Regulatory Procedures Manual, Chapter 9, Subchapter, 'Import for Export'''; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for FDA Field Offices entitled ''Regulatory Procedures Manual, Chapter 9, Subchapter, 'Import for Export'.'' This final guidance is a revision of the FDA Office of Regulatory Affairs' Regulatory Procedures Manual, Chapter 9, ''Import Operations/Actions,'' Subchapter, ''Import for Export,'' to provide guidance to the FDA Field Offices regarding the handling of products offered for import into the United States under section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act). The revision is necessary because of the enactment of section 322 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107–188, signed into law on June 12, 2002. Section 322 amends section 801(d)(3) of the act and is effective September 9, 2002.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Import Operations and Policy (HFC–170), Office of Regulatory Affairs, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph McCallion, Office of Regulatory Affairs (HFC–170), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6553.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for FDA Field Offices entitled ''Regulatory Procedures Manual, Chapter 9, Subchapter, 'Import for Export'.''

Section 322 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107–188, signed into law on June 12, 2002, amended section 801(d)(3) of the act (21 U.S.C. 381). The amended provision requires submission of certain information when certain articles are offered for import into the United States. The amended provision is effective September 9, 2002.

The final guidance covers the scope of articles that can be offered under section 801(d)(3) of the act and the information required by the statutory provision to be submitted when certain articles are offered as ''import for export.'' The final guidance provides examples of documentation that will assist the FDA field offices in making a determination that the appropriate statements and information have been submitted and whether the entry should be allowed as an ''import for export'' or refused admission. The final guidance also provides information on the meaning of the terms ''further processing'' and ''incorporated'' to be used by the FDA field offices in making determinations on the entry of products. Direction on internal agency procedures for processing ''import for export'' entries is included in the final guidance.

This final guidance is being issued consistent with FDA's good guidance practices (GGPs) regulation (21 CFR 10.115). It is being implemented immediately without prior public comment, under § 10.115(g)(2), because of the agency's urgent need to provide guidance on the implementation of section 322 of the Bioterrorism Act, which is effective September 9, 2002, only 90 days after the statute's enactment. However, pursuant to GGPs, FDA requests comments on the guidance and will revise the document, if appropriate. The guidance represents the agency's current thinking on ''Regulatory Procedures Manual, Chapter 9, Subchapter, 'Import for Export''' and is intended to provide uniform procedures for handling such importations by all FDA Field Offices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the guidance. 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. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/ora/compliance_ref/rpm_new2/ or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: September 6, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–23759 Filed 9–13–02; 4:27 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel. Chemoprevention of Tobacco Related Cancers in Former Smokers: Preclinical studies.

Date: November 4, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23629 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel. Chemoprevention of Tobacco Related Cancers in Former Smokers: Clinical Studies.

Date: November 5, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23630 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Rebuilding Immunity for Survival.

Date: October 7–9, 2002.

Time: 7 p.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: The Inn at Longwood Medical, 342 Longwood Avenue, Boston, MA 02115.

Contact Person: William D. Merritt, PhD, Scientific Review Administrator, Grants Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8034, MSC 8328, Bethesda, MD 20892–8328, 301–496–9767.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23632 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cancer Prognosis and Prediction.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892, 301/594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23633 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA.

Date: October 22–24, 2002.

Closed: October 22, 2002, 7 p.m. to recess.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 23, 2002, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Open: October 23, 2002, 8:30 a.m. to 11:30 a.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 23, 2002, 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Open: October 23, 2002, 12:30 p.m. to 5 p.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 23, 2002, 5 p.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 24, 2002, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Open: October 24, 2002, 8:30 a.m. to 11:30 a.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 24, 2002, 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Open: October 24, 2002, 12:30 p.m. to 3:30 p.m.

Agenda: Committee Discussion.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: October 24, 2002, 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, *dl14q@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23627 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, October 17, 2002, 2 p.m. to October 17, 2002, 3 p.m., NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709 which was published in the **Federal Register** on August 29, 2002, 67 FR 55412.

The telephone conference meeting will be held on 10/24/2002 at 2 p.m. instead of 10/17/2002 as previously advertised. The meeting is closed to the public.

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23631 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Minority Development Awards in Auditory Learning.

Date: October 1, 2002.

Time: 12 P.M. to 2 P.M.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23635 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, HIV Vaccine Design and Development Teams.

Date: October 9–10, 2002.

Time: 8:30 AM to 4 PM.

Agenda: To review and evaluate contract proposals.

Place: 2101 Wisconsin Ave., NW., Washington, DC 20007.

Contact Person: Geetha P. Bansal, PhD., Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–496–2550, *gbansal@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23637 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee. Review of Training Grants.

Date: November 4–5, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Institute of Environmental Health Services, South Campus, Building 101, Conference Room B, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PhD., Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23638 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: October 9–10, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, 1400 M Street, Washington, DC 20005.

Contact Person: Melissa Stick, PHD, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23639 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee, Microbiology and Infectious Diseases Research Committee.

Date: October 17, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel Georgetown, 3000 M Street, NW, Washington, DC 20007.

Contact Person: Gary S. Madonna, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2149, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–3528, *gm12w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23634 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5. U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Pathophysiological Sciences Integrated Review Group, Respiratory Physiology Study Section.

Date: October 7, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892. (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, General Medicine A Subcommittee 2.

Date: October 7–8, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *Khanm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Toxicological Sciences.

Date: October 7, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520, Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 4.

Date: October 7–8, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery and Bioengineering Study Section.

Date: October 7–8, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Center, Bethesda, MD 20814.

Contact Person: Teresa Nesbitt, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, (301) 435–1172, *nesbitt@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Chemical Pathology Study Section.

Date: October 7–9, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *fungv@csr.nih.gov.*

Name of Committee: Pathophysiological Sciences Integrated Review Group, Alcohol and Toxicology Subcommittee 1.

Date: October 7–8, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Westin Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwelp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, General Medicine A–1.

Date: October 7–8, 2002.

Time: 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Harold M. Davidson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–DMG (01) Diagnostic Radiology Member Conflict Meeting.

Date: October 7, 2002.

Time: 7 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 RNM 01M:Diagnostic Imaging Member Conflict Meeting.

Date: October 7, 2002.

Time: 7 P.M. to 10 P.M.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.

Date: October 8–9, 2002.

Time: 8 A.M. to 5 P.M.

agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.

Date: October 8–9, 2002.

Time: 8 A.M. to 4 P.M.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.

Date: October 9–10, 2002.

Time: 8:30 A.M. to 4 P.M.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4178, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group. Visual Sciences B Study Section.

Date: October 9–10, 2002.

Time: 8:30 A.M. to 2 P.M.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Christine Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176 MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Emphasis Panel, ZRG1 BDCN–3–01.

Date: October 9–11, 2002.

Time: 6 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: David L. Simpson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, *simpsod@mail.nih.gov.*

Name of Committee: Center for Scientific Review Emphasis Panel, ZRG1 SSS–W 10B:Small Business:Cardiovascular Devices.

Date: October 10–11, 2002.

Time: 8 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday, Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhinsad@csr.nih.gov.*

Name of Committee: Endocrinology and Reproductive Sciences Integrated Review Group, Biochemical Endocrinology Study Section.

Date: October 10–11, 2002.

Time: 8 AM to 1 PM.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday, Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

Name of Committee: Center for Scientific Review Emphasis Panel, ZRG1 HEM–2 (301)I: PAR–02–036; Shared Instrumentation: Cell Sorter/Flow Cytometer.

Date: October 10, 2002.

Time: 8:30 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.

Name of Committee: Center for Scientific Review Emphasis Panel, Behavioral Medicine: Interventions and Outcomes.

Date: October 10–11, 2002.

Time: 8:30 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Radisson—Old Town, 901 North Fairfax Street, Alexandria, VA 22314.

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.

Date: October 10–11, 2002.

Time: 8:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892, (301) 435–1019.

Name of Committee: Genetic Sciences Integrated Review Group, Genetics Study Section.

Date: October 10–12, 2002.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, *remondid@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 2, Biobehavioral Mechanisms of Affect, Immunology and Stress.

Date: October 10–11, 2002.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC 20005–2750.

Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *tathamt@csr.nih.gov.*

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Epidemiology and Disease Control Subcommittee 1.

Date: October 10–11, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Scott Osborne, PhD., MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS 8 (11): Small Business: Bioengineering and Physiology.

Date: October 11, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Paul Parakkal, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–435–1176, *parakkap@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 11, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23628 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 25, 2002.

Time: 11 AM to 12 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles N. Rafferty, PhD, NIOSH Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, Bethesda, MD 20892, (301) 435–3562.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–W 2M:Member Conflict:Surgery & Bioengineering.

Date: October 2, 2002.

Time: 10 AM to 12 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 2.

Date: October 3–4, 2002.

Time: 8:30 AM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026, *nayakr@csr.nih.gov.*

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Metallobiochemistry Study Section.

Date: October 3–4, 2002.

Time: 8:30 AM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC, 20009.

Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, 301–435–1723, *nelsonja@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS2 301 Shared Instrumentation Grants.

Date: October 4, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: Prabha L. Atreya, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–8367, *atreyap@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Pathology B Study Section.

Date: October 6–8, 2002.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Resort, 2 Grasslawn Avenue, Hilton Head, SC 29928.

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 9, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–23636 Filed 9–17–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Notification of Intent To Use Schedule III, IV, or V Opioid Drugs for the Maintenance and Detoxification Treatment of Opiate Addiction Under 21 U.S.C. 823(g)(2)—[OMB No. 0930–0234, extension]—The Drug Addiction Treatment Act of 2000 (''DATA,'' Public Law 106–310) amended the Controlled Substances Act (21 U.S.C. 823(g)(2) to permit practitioners (physicians) to seek and obtain waivers to prescribe certain approved narcotic treatment drugs for the treatment of opiate addiction. The legislation sets eligibility requirements and certification requirements as well as an interagency notification review process for physicians who seek waivers.

To implement these new provisions, SAMHSA has developed a notification form (SMA 167) that facilitates the submission and review of notifications. The form provides the information necessary to determine whether practitioners (*i.e.*, independent physicians and physicians in group practices (as defined under section

1877(h)(4) of the Social Security Act) meet the qualifications for waivers set forth under the new law. Use of this form will enable physicians to know they have provided all information needed to determine whether practitioners are eligible for a waiver. However, there is no prohibition on use of other means to provide requisite information. The Secretary will convey notification information and determinations to the Drug Enforcement Administration (DEA), which will assign an identification number to qualifying practitioners; this number will be included in the practitioner's registration under 21 U.S.C. 823(f).

Practitioners may use the form for two types of notification: (a) New, and (b) immediate. Under ''new'' notifications, practitioners may make their initial waiver requests to SAMHSA. ''Immediate'' notifications inform SAMHSA and the Attorney General of a practitioner's intent to prescribe immediately to facilitate the treatment of an individual patient under 21 U.S.C. 823(g)(2)(E)(ii).

The form collects data on the following items: practitioner name; state medical license number and DEA registration number; address of primary location, telephone and fax numbers; e-mail address; name and address of group practice; group practice employer identification number; names and DEA registration numbers of group practitioners; purpose of notification (new or immediate); certification of qualifying criteria for treatment and management of opiate-dependent patients; certification of capacity to refer patients for appropriate counseling and other appropriate ancillary services; certification of maximum patient load, certification to use only those drug products that meet the criteria in the law. The form also notifies practitioners of Privacy Act considerations, and permits practitioners to expressly consent to disclose limited information to the SAMHSA Substance Abuse Treatment Facility Locator.

At present, there are no narcotic drugs or combinations for use under these notifications; however, SAMHSA believes that it is appropriate to develop a notification system to implement DATA in anticipation of narcotic treatment medications becoming available in the very near future. Therefore, SAMHSA recently obtained emergency OMB approval of form SMA 167 so that physicians will have it available to use if they wish to be assured that all required information is provided on their waiver submission and so that the review of submissions may be facilitated by use of a standard format for provision of the required information. Respondents may submit the form electronically, through a dedicated Web page that SAMHSA has established for the purpose, as well as via U.S. mail.

The following table summarizes the estimated annual burden for the use of this form.

Purpose of submission	Number of respondents	Responses per respondent	Burden per response (Hr.)	Total burden (Hrs.)
Initial Application for Waiver	1,200	1	.083	100
Notification to Prescribe Immediately	33	1	.083	3
Total	1,200	.....	.....	103

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Herron Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 12, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–23682 Filed 9–17–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, as Amended; Amendment of an Existing System of Records

AGENCY: Department of the Interior.

ACTION: Proposed amendment of an existing system of records.

SUMMARY: The Department of Interior (DOI) is issuing public notice of its intent to amend a Departmentwide Privacy Act (PA) system of records in its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). DOI–71, ''Freedom of Information Request Files System—Interior, is being amended due to the fact that the Department is consolidating data from systems (both paper and electronic) maintained by individual bureaus and offices within DOI into a centralized electronic database. The new electronic Freedom of Information Act tracking system (EFTS) will contain information on Freedom of Information Act (FOIA) and PA requesters and their requests for records or information, appeals, and related litigation. All of the fields in the PA system of records notice, DOI–71, have been revised. This includes changing the name of the system to ''DOI–71: Electronic FOIA Tracking System and FOIA Case Files—Interior,'' DOI–71.

EFFECTIVE DATE: 5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the agency's intended use of the information in the system of records. The Office of Management and Budget, in its Circular A–130, requires an additional 10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed amendment may do so by submitting comments in writing to the Departmental Privacy Act Officer, U.S. Department of the Interior, Office of the Chief Information Officer, Mail Stop (MS)–5312–Main Interior Building (MIB), 1849 C Street NW., Washington, DC 20240, or by e-mail to *Marilyn_Legnini@ios.doi.gov.* Comments received within 40 days of publication in the **Federal Register** will be considered. The system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

FOR FURTHER INFORMATION CONTACT: Alexandra Mallus, Office of the Chief Information Officer, Office of the Secretary, by phone at 202–208–5342, by email at *Alexandra_Mallus@ios.doi.gov* or by

mail at MS–5312–MIB, 1849 C. St. NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

SUPPLEMENTARY INFORMATION AND PURPOSE: The Interior EFTS will contain information on individuals for the purposes of managing and processing FOIA and PA requests. This system will: (1) Enable the Department to administer the program more efficiently while ensuring requests are responded to in a more timely fashion; (2) support action on FOIA requests, appeals, and litigation; (3) ensure documents are released in a more consistent manner; (4) assist in eliminating the duplication of effort that currently exists; (5) gather information for management and reporting purposes, improving the Department's reporting capability and providing for more efficient use of manpower; and (6) improve customer service.

A copy of the system notice for DOI–71, Electronic FOIA Tracking System and FOIA Case Files—Interior, follows:

Dated: September 13, 2002.

Marilyn A. Legnini,

Privacy Act Officer, Department of Interior.

INTERIOR/DOI–71

SYSTEM NAME:

Electronic FOIA Tracking System and FOIA Case Files—Interior, DOI–71.

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

(1) The electronic Freedom of Information Act tracking system (EFTS) database data and the application for the EFTS are maintained on hardware by the National Business Center (NBC), U.S. Department of the Interior (DOI), Washington, DC 20240.

(2) Records in this system (paper or electronic) are located in the offices of Bureau and Office Freedom of Information Act (FOIA) Officers and Coordinators. (For a list of DOI addresses, see the Appendix or DOI's FOIA web site at http://www.doi.gov/foia/contacts.html.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or their representatives who have submitted FOIA/Privacy Act (PA) requests for records or information and administrative appeals, or have litigation pending with DOI or another Federal agency; individuals whose requests or records have been referred to the Department by other agencies; individuals who are the subject of such requests, appeals, and litigation; and/or the DOI personnel assigned to handle such requests, appeals, and litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of records created or compiled in response to FOIA or PA requests for records or information, administrative appeals, and related litigation and includes: the original requests and administrative appeals; responses to such requests and appeals; all related memoranda, correspondence, notes, and other related or supported documentation, and in some instances copies of requested records and records under appeal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the EFTS and FOIA case files, which are maintained both electronically and in paper format, is to more efficiently manage DOI's FOIA program. This system:

(1) Enables the Department to administer the program more efficiently while ensuring requests are responded to in a more timely fashion;

(2) Supports action on FOIA requests, appeals, and litigation;

(3) Ensures documents are released in a more consistent manner;

(4) Assists in eliminating the duplication of effort that currently exists;

(5) Gathers information for management and reporting purposes, improving the Department's reporting capability and providing for more efficient use of manpower; and

(6) Improves customer service.

Disclosures outside the DOI may be made:

(1) To an expert, consultant, or contractor (including employees of the contractor) of the Department that performs, on the Department's behalf, services requiring access to these records.

(2) To other Federal, State, and local agencies having a subject matter interest in a request or an appeal or a decision thereon.

(3) To another Federal agency to assist that agency in responding to an inquiry by the individual to whom that record pertains.

(4)(a) To any of the following entities or individuals:

(i) The Department of Justice (DOJ);

(ii) A court, adjudicative or other administrative body;

(iii) A party in litigation before a court or adjudicative or administrative body;

(iv) The Department or any component of the Department;

(v) Any Department employee acting in his or her official capacity; or

(vi) Any Departmental employee acting in his or her individual capacity if the Department or the DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) The Department or any component of the Department;

(B) Any Department employee acting in his or her official capacity;

(C) Any Departmental employee acting in his or her individual capacity if the Department or the DOJ has agreed to represent that employee or pay for private representation of the employee;

(D) the United States, when the DOJ determines that the Department is likely to be affected by the proceeding; and

(ii) The Department deems the disclosure to be:

(A) relevant and necessary to the proceeding; and

(B) Compatible with the purposes for which the records were compiled.

(5) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation of or for enforcing or implementing a statute, rule, regulation, order or license, when the Department becomes aware of a violation or potential violation of a statute, rule, regulation, order or license.

(6) To a congressional office in response to an inquiry an individual covered by the system has made to the congressional office about him or herself.

(7) To a debt collection agency for the purpose of collecting outstanding debts owed to the Department for fees associated with processing FOIA/PA requests.

(8) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)12, records can be disclosed to consumer reporting agencies as they are defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper files.

RETRIEVABILITY:

Information can be retrieved by specific data elements in the system including: the FOIA number; the name of the requester and/or his/her organizational affiliation; subject; etc. Paper records are normally retrieved by case number or by the name of the person making the request.

SAFEGUARDS:

Access to records in the system is limited to authorized personnel whose official duties require such access. Paper records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records are maintained in accordance with the Office of Management and Budget and Departmental guidelines reflecting the implementation of the Computer Security Act of 1987 (40 U.S.C. 759). Electronic data is protected through user identification, passwords, database permissions and software controls. Such security measures establish different access levels for different types of users.

RETENTION AND DISPOSAL:

Records in this system are covered by General Records Schedules 14 and 20. Bureaus and offices also follow guidance on permanent and temporary records disposition issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESSES:

(1) The Departmental FOIA Officer, Office of the Chief Information Officer, U.S. Department of the Interior, 1849 C Street, NW., MS–5312 MIB, Washington, DC 20240 has overall responsibility for the policies and procedures used to operate the system.

(2) DOI FOIA Officers and Coordinators in headquarters and in field offices have responsibility for the data input into and maintained on the EFTS for their respective organizations along with any paper records. To obtain a current list of the FOIA Officers and Coordinators and their addresses, see *http://www.doi.gov/foia/contacts.html* or the Appendix.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records in the EFTS or inquiries regarding the existence of paper records should be sent to the FOIA Officer or Coordinator of the Bureau or Office that maintains the FOIA records (see http://www.doi.gov/foia/contacts.html or the Appendix). All inquiries must be in writing, signed by the requester, and meet the criteria of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

To request access to records, follow the procedures in the ''Notification procedures'' section, above. The request must meet the requirements of 43 CFR 2.63. The request envelope and letter should be clearly marked either ''FREEDOM OF INFORMATION ACT REQUEST FOR ACCESS'' or ''PRIVACY ACT REQUEST FOR ACCESS.''

CONTESTING RECORD PROCEDURES:

To request an amendment of a record, follow the procedures in the ''Notification procedures'' section, above. The request must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information gathered in this system is submitted by individuals, agencies, or corporate entities filing FOIA/PA requests and agency employees processing these requests. Information also is taken from the following PA system of records: Freedom of Information Act Appeal Files—Interior, DOI–69; and Privacy Act Files—Interior, DOI–57.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–23705 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–RK–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 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, Ecological Services, 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 to the address above for a copy of such documents within 30 days of the date of publication of this notice.

SUPPLEMENTARY INFORMATION:

Permit No. TE–057946

Applicant: USDA Natural Resource Conservation Service, Flagstaff, Arizona.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, California, Nevada, New Mexico, and Utah.

Permit No. TE–802956

Applicant: Walcoff & Associates, White Sands Missile Range, New Mexico.

Applicant requests an amendment to an existing permit to allow presence/absence surveys within White Sands Missile Range, New Mexico for the following species: southwestern willow flycatcher (*Empidonax traillii extimus*), black-footed ferret (*Mustela nigripes*), and whooping crane (*Grus americana*).

Permit No. TE–820083

Applicant: Oklahoma Cooperative Fish & Wildlife Rescue Unit, Stillwater, Oklahoma.

Applicant requests an amendment to an existing permit to allow collection of Clear Creek gambusia (*Gambusia heterchir*) within Menard County, Texas.

Permit No. TE–841359

Applicant: USDA Forest Service, Gila National Forests, Silver City, New Mexico.

Applicant requests an amendment to an existing permit to allow monitoring surveys for Gila trout (*Oncorhynchus gilae*) within the Gila National Forest. Methodology may include use of seines, dip nets, and electrofishing.

Permit No. TE–055422

Applicant: BIO–Logic Environmental, Montrose, Colorado.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Colorado.

Permit No. TE–059141

Applicant: City of New Braunfels, New Braunfels, Texas.

Applicant requests a permit for research and recovery purposes to allow habitat management for the fountain darter (*Etheostoma fonticola*), within Comal County, Texas, in the form of aquatic plant removal resulting in some take of fountain darter eggs.

Permit No. TE–059794

Applicant: Mary Darling, Tucson, Arizona.

Applicant requests a permit for research and recovery purposes to conduct presence/absence surveys within Arizona for the following species: southwestern willow flycatcher (*Empidonax traillii extimus*), cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*), and Gila topminnow (*Poeciliopsis occidentalis*).

Leslie A. Dierauf,

Acting Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–23650 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Sweeny) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Gary Sweeny (Applicant) has applied for an incidental take permit (TE–060909–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and operation of a church on an approximately 1.79 acre property in the Bastrop Hills Homesites Subdivision, Bastrop County, Texas.

DATES: Written comments on the application should be received within 60 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–060909–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Gary Sweeny plans to construct a church, within 5 years, on an approximately 1.79 acre property in the Bastrop Hills Homesites Subdivision, Bastrop County, Texas. This action will eliminate 1.79 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $5,370.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Acting Regional Director, Region 2.

[FR Doc. 02–23651 Filed 9–17–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1990–FA–24 1A]

OMB Approval Number 1004–0114; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted an extension of a currently approved collection to collect the information listed below to the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On August 21, 2001, the BLM published a notice in the **Federal Register** (66 FR 43900) requesting comments on this information collection. The comment period ended on October 22, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0114), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Recordation of Location Notices and Annual Filings for Mining Claims, Mill Sites, and Tunnel Sites; Payment of Location and Maintenance Fees and Service Charges (43 CFR parts 3730, 3810, 3820, 3830, and 3850).

OMB Approval Number: 1004–0114.

Bureau Form Numbers: 3830–2 and 3830–3.

Abstract: We use the information collected to determine whether or not mining claimants have met the statutory requirements. Mining claimants must record location notices or certificates of mining claims, mill sites, and tunnel sites with BLM within 90 days of their location. Claimants who do not pay the maintenance fee must make an annual filing by December 30. The mining claim or site is forfeited by operation of law if claimants fail to record the mining claim or site or to submit an annual filing when required.

Enactment of Public Law 107–63 of November 5, 2001 (115 Stat. 414) and 30 U.S.C. 28(f)–(k) requires payment of a $100 per claim or site maintenance fee for fiscal years 2002 and 2003. The payment is due at the time of recording and by each September 1st thereafter. The Act also requires a $25 location fee for all new claims or sites located, payable at the time of recording with BLM. Certain ''small miners'' owning 10 or fewer claims or sites in total may file by each September 1st a waiver from payment of the maintenance fee and record of an annual filing as in the past. The mining claim or site is forfeited by operations of law if claimants fail to pay the fee or file for a waiver by September 1st.

Public Law 107–63 (43 U.S.C. 299[b]) established new procedures for location of mining claims upon the reserved mineral estate of the United States where the mineral estate was reserved under the authority of the Stock Raising Homestead Act of 1916, as amended. The locator must now file a ''Note of Intent to Locate Mining Claims'' (NOITL) with BLM and serve a copy of the NOITL upon the surface owner of record listed in the local tax records. The locator must wait 30 days after serving the surface owner before entering the lands or locating mining claims upon the lands so noticed. The notice segregates the lands from mining claim location or mineral sale under 43 U.S.C. 1719 on behalf of the locator for 90 days from acceptance by BLM. BLM must post the NOITL on the official land records. The surface owner is not subject to filing a NOITL and may locate mining claims at any time the mineral estate is not segregated.

Frequency: Once for notices and certificates of location, NOITL, and payment of location fees. Once each year for annual filings, payment of maintenance fees or filing of waivers. As needed for recording of amendments to a previously recorded notice or certificate of location or transfer of interest.

Description of Respondents: Respondents may range from individual to multi-national corporations.

Estimated Completion Time: Eight minutes for each document or payment (one hour for a Deferment Petition).

Annual Responses: 236,852.

Application Fee per Response: Service charges are assessed at $10 each for new claims, $5 each for all other mining claims documents, and NOITL and petitions for deferment of assessment work is $25 each.

Annual Burden Hours: 31,585.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: April 5, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–23670 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24 1A]

OMB Approval Number 1004–0145; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted an extension of a currently approved collection, to collect information listed below, to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On August 24, 2001, the BLM published a notice in the **Federal Register** (66 FR 44641) requesting comment on this information collection. The comment period ended on October 23, 2001. The BLM received no comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0145), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments

We specifically request your comments on the following:

(1) Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

(2) The accuracy of BLM's estimates of the burden of collecting the information, including the validity of the methodology and assumptions we use;

(3) The quality, utility, and clarity of the information we collect; and

(4) How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Oil and Gas Exploration and Leasing (43 CFR parts 3100, 3120, and 3150).

OMB Approval Number: 1004–0145.

Abstract: We use the information to determine whether an applicant is qualified to conduct oil and gas exploration and leasing activities and to hold a lease to obtain a benefit under the terms of the Mineral Leasing Act of 1920. Respondents supply the information that we will use to determine if an applicant is eligible to hold, explore for, and produce oil and gas on Federal lands.

Form Number: 3100–11.

Frequency: On occasion.

Description of Respondents: Individuals, small businesses, and oil and gas exploration and drilling companies.

Estimated Completion Time: 1 hour.

Annual Responses: 1,770.

Application Fee per Response: 0.

Annual Burden Hours: 2,235.

Bureau Clearance Officer: Michael H. Schwartz (202) 452–5033.

Dated: August 21, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–23671 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–01–1430–EU; GP–02–02731]

Notice of Direct Sale of Public Lands in Klamath County Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Direct Sale of Public Lands in Klamath County, Oregon (OR 53841).

SUMMARY: The following land has been found suitable and is classified for direct sale under Section 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 43 U.S.C. 1719, and Section 7 of the Taylor Grazing (42 U.S.C. 351f). The land will be sold at no less than the fair market value of $10,900.00. The land will not be offered for sale until at least 60 days after this notice.

Willamette Meridian,

T. 38S., R. 10 E.
Section 6 Lots 5,6 and NE¼SW¼.
Containing approximately 119.76 acres.

The above described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not for sale under the above cited statutes, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

This land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by the sale.

Purchasers must be U.S. citizens, 18 years or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located.

The lands are being offered to Kennedy Land Company, LLC using the direct sale procedures authorized under 43 CFR 2743.3–3. Direct sale is appropriate because there is no public access to the public lands and the public lands are surrounded by lands owned by the sale proponent.

The terms, conditions, and reservations applicable to this sale are as follows:

1. A right-of way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

2. All oil and gas and geothermal resources in the land will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976.

3. The mineral interests being offered for conveyance have no known mineral value. The acceptance of a direct sale offer will constitute an application for conveyance of the mineral estate, with the exception of the oil and gas and geothermal interests which will be reserved to the United States in accordance with Section 209 of the Federal Land Policy and Management Act of 1976.

4. Patents will be issued subject to all valid existing rights and reservations of record.

If land identified in this notice is not sold it will be offered competitively on a continuing basis until sold.

Detailed information concerning the sale, including the reservations, sale procedures, and planning and environmental documents, is available at the Klamath Falls Field Office, 2795 Anderson Ave. Building 25, Klamath Falls, OR 97603.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Klamath Falls Resource Area Office at the above address. Objections will be reviewed by the Lakeview District Manager who may sustain, vacate, or modify this realty action. In absence of any objections, this realty action will become the final action of the Department of the Interior. Questions should be directed to Linda Younger at the above address or by phone at 541–883–6916.

Dated: June 27, 2002.

Teresa A. Raml,

Field Manager, Klamath Falls Resource Area.

[FR Doc. 02–23649 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–030–2640–BH; AZA 31887]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 352.55 acres for a period of 20 years to protect the Hillside Mine Reclamation Project. This notice segregates the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to mineral and geothermal leasing and material sales.

DATES: Comments should be received on or before December 17, 2002.

ADDRESSES: Comments should be sent to the Kingman Field Office Manager, BLM, 2475 Beverly Avenue, Kingman, AZ 86401.

FOR FURTHER INFORMATION CONTACT: Art Smith, Kingman Field Office, BLM, 2475 Beverly Avenue, Kingman, AZ 86401, 928–692–4433.

SUPPLEMENTARY INFORMATION: On May 30, 2002, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

T. 15 N., R. 9 W.,
Sec. 16, lots 1 to 5, inclusive, SW¼NE¼, SE¼NW¼, NW¼SW¼, and E½SE¼.
The area described contains 352.55 acres in Yavapai County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to Kingman Field Office Manager.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Kingman Field Office Manager, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a newspaper at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: June 13, 2002.

Steven J. Gobat,

Acting Deputy State Director, Resources Division.

[FR Doc. 02–23642 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–050–1430–01; MTM 91719]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, proposes to withdraw approximately 400.917 acres of public land to protect resources acquired in the Axolotl Lakes area. This notice closes the land for up to 2 years from surface entry and mining. The land has been and will remain open to mineral leasing.

DATES: Comments must be received by December 17, 2002.

ADDRESSES: Comments and meeting requests should be sent to the State Director, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800.

FOR FURTHER INFORMATION CONTACT: Angela Perry, Dillon Field Office, 100 Selway Drive, Dillon, Montana 59725, (406) 683–2337, or Sandra Ward, Montana State Office, P.O. Box 36800, Billings, Montana 59107, (406) 896–5052.

SUPPLEMENTARY INFORMATION: On August 9, 2002, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described land from settlement, sale, location and entry under the general land laws, including location and entry under the mining laws, but not from leasing under the mineral leasing laws.

Principal Meridian, Montana

T. 7 S., R. 2 W.,
Sec. 8, S½SE¼ and NW¼SE¼;
Sec. 17, N½NE¼.

Tract C, as shown on Perrault No. 1 Minor Subdivision Plat filed in Book 4 of Plats, Page 267, in the records of Madison County, Montana and being a tract of land located in the S½NE¼ of sec. 8 of T. 7 S., R. 2 W., and

Tract D, as shown on Certificate of Survey No. 1277, filed in Book 7 of Surveys, Page 1277, in the records of Madison County, Montana and being a tract of land located in S½NE¼ of sec. 8 and the S½N½ and SE¼ of sec. 9 of T. 7 S., R. 2 W.

The land described above contains 400.917 acres in Madison County

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Montana State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above, subject to valid existing rights, unless the proposal is denied or canceled or the withdrawal is finalized prior to the end of the segregation.

Dated: August 15, 2002.

Howard A. Lemm,

Acting Deputy State Director, Division of Resources.

[FR Doc. 02–23643 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; N–75235]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw a 94.21 acres of public land from surface entry and mining for a period of 20 years to protect pubic health and safety from land contaminated by previous milling operations. This notice closes the land from surface entry and mining for up to 2 years while various studies and analyses are made to make a final decision on the withdrawal application.

DATES: Comments and requests for a meeting should be received on or before December 17, 2002.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520–0006.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 775–861–6532.

SUPPLEMENTARY INFORMATION: On July 2, 2002, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T 19 N., R. 43 E.,
Sec. 13, lots 2, SW¼SE¼ and N½N½NW¼SE¼.

The area described contains 94.21 acres in Lander County.

The purpose of the proposed withdrawal is to protect the public health and safety as well as to prevent the filing of mining and mill site claims which would interfere with the reclamation of the Bullion Monarch Mill site. The Bullion Monarch Mill was the site of milling operations for many decades. The area contains a flotation mill and associated facilities that can be hazardous to public users. The Bureau of Land Management intends to reclaim the site. A withdrawal would preclude the filing of mining and mill site claims while the site is being reclaimed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Other uses which will be permitted during this segregative period are rights-of-way, leases, and permits.

Dated: August 7, 2002.

Jim Stobaugh,

Lands Team Lead.

[FR Doc. 02–23641 Filed 9–17–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Pursuant to RCRA and the Bankruptcy Code

Notice is hereby given that on September 13, 2002, the Unites States lodged a proposed Settlement between the United States, the State of Louisiana, Borden Chemicals and Plastics Operating Limited Partnership (''Debtor''), BCP Management, Inc., and Borden Chemical, Inc. (''BCI'') with the United States Bankruptcy Court for the District of Delaware, in *In re Borden Chemicals and Plastics Operating Limited Partnership et al,* No. 01–1268, a case for relief under Chapter 11 of the Bankruptcy Code, 11 U.S.C. 101 *et seq.*

The proposed Settlement Agreement resolves the Proof of Claim of the United States in connection with the chemical manufacturing facility owned and operated by the Debtor located in Geismar, Louisiana. Under the proposed Settlement Agreement, BCI, the parent of the general partner of the Debtor, has agreed to complete certain of the Debtor's obligations under a 1998 Consent Decree with the Environmental Protection Agency (''EPA'') under the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6921 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*; and the Clean Air Act (''CAA''), 42 U.S.C. 7401 *et seq.,* for the Debtor's facility in Geismar, Louisiana. That Consent Decree required the Debtor to obtain a RCRA permit, to come into compliance with RCRA regulations, to perform a facility-wide corrective action and protect the aquifer underlying the facility, to pay a $3.6 million civil penalty and to perform certain Supplemental Environmental Projects (''SEPs''). *See United States* v. *Borden Chemical and Plastics Operating Limited Partnership* C.A. No. 94–440 (Consent Decree, W.D. La. June 10, 1998). Although the Debtor applied for the permit, paid the civil penalty and has completed most provisions of the Consent Decree. Under the proposed Settlement Agreement, the Debtor will complete the SEPs, and BCI will assume responsibility for implementation of the remaining corrective action and remedial provisions of the Consent Decree.

The Department of Justice will receive for a period of fifteen (15) days from the date of this publication comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *In re Borden Chemicals and Plastics Operating Limited Partnership, et al.,* DJ No. 90–11–2–875/2.

The proposed Settlement Agreement, including related exhibits, may be examined at the Office of the United States Attorney for the District of Delaware, 1201 Market Street, Suite 1100, P.O. Box 2046, Wilmington, Delaware 19800–2046; and at the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Settlement Agreement and related exhibits may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amounts of $78.50, payable to the U.S. Treasury.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–23700 Filed 9–17–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act, 33 U.S.C. et seq.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States and State of Ohio* v. *City of Toledo, Ohio*, Civil Action No. 3:91:CV7646, was lodged on August 28, 2002, with the United States District Court for the Northern District of Ohio, Western Division.

In this action, the United States sought injunctive relief and civil penalties arising from violations of Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a). Under the proposed Consent Decree, the City of Toledo, Ohio (the ''City'') will (1) construct improvements to end its practice of discharging raw sewage from its treatment plant; (2) build an expanded and enhanced primary treatment system; (3) take additional steps to assure that flows from the plant will receive full biological treatment; (4) prepare a long term control plan to address the City's combined sewer overflows for approval by the United States Environment Protection Agency (''EPA'') and the Ohio Environmental Protection Agency (''Ohio EPA''), and construct all improvements set forth in the approved plan; (5) take specific steps to eliminate discharges from separated sanitary portions of the City's sewer system; (6) pay $500,000 in civil penalties—$425,000 to the United States and $75,000 to the State of Ohio; and (7) undertake two supplemental environmental projects, valued at $1 million—to reconstruct wetlands for public use and to clean up a brownfields site, both located within the City of Toledo.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States and State of Ohio* v. *City of Toledo, Ohio*, DOJ Ref. No. 90–5–1–1–3554.

The proposed consent decree may be examined at the office of the United States Attorney, Four Seagate, Suite 308, Toledo, Ohio 43604; the Region 5 Office of the U.S. Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois 60604–3590. A copy of the proposed consent decree may also be obtained by request addressed to the Department of Justice Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check (25 cents per page reproduction costs) in the amount of $21.00 for the consent decree (84 pages), payable to the Consent Decree Library.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–23702 Filed 9–17–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and Clean Air Act

In accordance with 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on September 5, 2002 a Consent Decree was lodged with the United States District Court for the District of Connecticut in *United States* v. *City of Waterbury*, Civil Action No. 3:02CV01569 (CFD). A complaint was also filed simultaneously with the lodging of the Consent Decree. In the complaint the United States, on behalf

of the U.S. Environmental Protection Agency (EPA), alleges that the defendant City of Waterbury (''the City'') violated the Clean Water Act, 33 U.S.C. 1251, *et seq.*, (''CWA'') in connection with the City's operation of its publicly-owned treatment works. The violations alleged in the complaint include discharges of untreated wastewater to navigable waters through point sources other than those authorized by the City's permit. The complaint also alleges certain violations of the Clean Air Act, 42 U.S.C. 7671–7671q, and the accompanying regulations in that the City crushed discarded appliances in a manner that the City knew would result in the release of refrigerants into the environment. The consent decree requires the City pay a civil penalty of $350,000 and to perform injunctive relief to achieve compliance with the Clean Water Act and the Clean Air Act.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *City of Waterbury,* D.J. Ref. 90–5–2–1–2212.

The proposed consent decree may be examined at the office of the United States Attorney, 157 Church St., New Haven, Connecticut, 06510, and at the Region I office of the Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $9.25 payable to the ''U.S. Treasury.''

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 02–23701 Filed 9–17–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on July 24, 2002, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Telemanagement Forum (''the Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ENA, Inc., Alpharetta, GA; HighDeal, Inc., Redwood Shores, CA; CTS (CRIL Telecom Software), Boulogn-Billancourt, France; Croatian Telecom-HT, Zagreb, Croatia; NE Technologies, Inc., Norcross, GA; CG–Consulting Group CmbH, Frankfurt, Germany; Portugal Telecom Inovacao, SA, Averio, Portugal; TeleGea, Inc., Waltham, MA; ip value GmbH, Frankfurt, Germany; Cape Technologies, Dublin Ireland; Staffware, Maidenhead, United Kingdom; ORMvision, Lochristi, Belgium; T-Soft, Herzlia, Israel; Oscar Rene Galindo Zambrano (Individual member), Bogota, Columbia; Claudia Liliana Bucheli Enriques (individual member), Bogota, Columbia; Paul Short Consulting, Huddinge, Sweden; Convergineering LLC, Fair Haven, NJ; Hatteras Networks, Research Triangle Park, NC; Taral Networks, Inc., Kanata, Ontario, Canada; Fiberhome Software, Wuhan, People's Republic of China; TBoothe Communications, San Jose, CA; Vibrant Solutions, Fairfax, VA; Evolved Networks, Ipswich, United Kingdom; Proforma Corporation, Southfield, MI; InfoVista S.A., Courtaboeuf Cedex, France; mm02, Slough, United Kingdom; Cogent Defense & Security Networks, Gwent, United Kingdom; Leapstone Systems, Inc., Somerset, NJ; Intech Taiwan Corporation, Hsinchu, Taiwan; Mycom International, Inc., Wimbley, United Kingdom; China Telecom System Integration Co. Ltd., Beijing, People's Republic of China; Joule Software, Inc., Austin, TX; Ahaluna, Rome, Italy; Mandarin Associates, Ltd., Needham Market, United Kingdom; and Antel, Montevideo, Uraguay have been added as parties to this venture. The following existing members have changed their names: Laboratory for Telecommunications is now called Laboratory for Telecommunications-Faculty of Electrical Engineering, Ljubljana, Slovenia; Czech Telecom is now called CESKY Telecom, a.s.-ImagiNet, o.z., Prague, Czech Republic; Sigma Exallon Systems is now called Sigma Systems, Toronto, Ontario, Canada; Four Corners Telecommunications Corporation is now called 4C Telecom, Overland Park, KS; Loox Software is now called Engenuity Technologies, Montreal, Quebec, Canada; Intelligent Communications Software is now called ICS Intelligent Communication Software, Munich, Germany; Clear Communications Corp. is now called Clear, Bethlehem, PA; PriceWaterhouseCooper is now called PWC Consulting, London, United Kingdom; Edgeflow Inc. is now called Meriton Networks Inc., Kanata, Ontario, Canada; Information & Graphic Systems, Inc. is now called IGS, Inc., Boulder, CO; TYCOM, Ltd. is now called Tyco Telecommunications, Eatontown, NJ; Alcatel Telecom Limited is now called Alcatel, Paris, France; Telefonica Investigation y Desarrollo is now called Telefonica I + D, Madrid, Spain; KT ICOM is now called KTICOM, Seoul, Republic of Korea; BT is now called BTexact Technologies, Ipswich, United Kingdom; GE Smallworld is now called GE Network Solutions, Cambridge, United Kingdom; Integris is now called Steria, Langen, United Kingdom; Ericsson Billing Software AB is now called Ericsson AB, Karlstad, Sweden; Telecom Italia Lab-CSELT is now called Telecom Italia Group, Turin, Italy; Telia Network Services is now called Telia, Farsta, Sweden; and VPI Virtual Photonics is now called VPIsystems, Inc., Munich, Germany. The following parties have reinstated their memberships: ITTI—Institute of Communication and Information Technologies, Poznan, Poland; and Mobistar, Brussels, Belgium. The following members have cancelled or have had their memberships cancelled: Atlantech, Cumberland, United Kingdom; Axarte, Newbury, United Kingdom; Calico Commerce, San Jose, CA; Emperative, Waltham, MA; Escosoft, New Delhi, India; Idea.com, Newark, CA; Mannesman, Dusseldorf, Germany; Mformation, Edison, NJ; MTN RSA, Sandton, South Africa; OJSC, Almaty, Kazakhstan; Open Networks Engineering, Ann Arbor, MI; Quick Eagle Networks, Sunnyvale, CA; Venimex Inc., Altanta, GA; Airfiber, San Diego, CA; Teledesic, Bellevue, WA; Advanced Network Solutions SpA, Vimodrone, Italy; Aptis Software, San Antonio, TX; Astral Point, Chelmsford,

MA; Broadwing, Austin, TX; Cedere, Tyngsboro, MA; Dynegy Inc., Chicago, IL; General Bandwidth, Austin, TX; Protek, Maidenhead, Berkshire, United Kingdom; Telrad Networks, Rosh Ha'ayin, Israel; TRW, Redondo Beach, CA; Viryanet, Carrolton, TX; XO Communications, Inc., Reston, VA; Ennovate Networks, Boxboro, MA; Inteoptical Inc., Saratoga, CA; Traian Internet Products AG, Bonn, Germany; QiTEL AB, Uppsala, Sweden; Intelliobjects, Inc., Columbia, MD; Narus Inc., Palo Alto, CA; Syndesis Limited, Richmond Hill, Ontario, Canada; Computer Associates, Framingham, MA; Unisys Corporation, Blue Bell, PA; Ipsaris, Chertsey, United Kingdom; El Paso Global Networks, Houston, TX; NetNumber, Lowell, MA; Sycamore Networks, Chelmsford, MA; Alltel Information Services, Alpharetta, GA; KDDI Corporation, Tokyo, Japan; Royal Dutch KPN NV, The Hague, The Netherlands; Novell Inc., Boca Raton, FL; Hitachi Telecom, Norcross, GA; TCSI, New Market, Suffolk, United Kingdom; AFN Communications, Tulsa, OK; Altion Limited, Dublin, Ireland; ASG Technologies, Fredericton, New Brunswick, Canada; Callisma, White Plains, NY; Cell Telecom, Stockholm, Sweden; CSG International Ltd., Slough, United Kingdom; Cygent, Inc., San Francisco, CA; Enition S.A., Issy-Les-Moulineaux Cedex, France; EXA Corporation, Kawasaki, Japan; Info Objects Inc., San Jose, CA; Interlink Networks, Ann Arbor, MI; Maple Optical Systems, San Jose, CA; Mediation Technology, Calgary, Alberta, Canada; Minacom International, Montreal, Quebec, Canada; Monofox, LLC, Alpharetta, GA; Native Networks, Petah Tikva, Israel; NCC Group, Manchester, United Kingdom; NetHawk Solutions, Oulu, Finland; One Line, Barleben, Germany; ONI Systems, San Jose, CA; Qcom, Marlboro, NJ; Seneca Networks, Rockville, NC; Spazio ZeroUno SpA, Vimodrone, Italy; Star Home Limited, Tel Aviv, Israel; Step 9 Software Corporation, Fairfax, VA; Stonehouse Technologies, Plano, TX; Telecom Management Consulting Group, New York, NY; Tele-Worx, Garland, TX; TelOptica, Richardson, TX; Telution, Chicago, IL; Telynx, Reston, VA; T-Soft, Herzlia, Israel; Varros Telecom LLC, Sunnyvale, CA; Velankani, Somerset, NJ; WFI Network Management Services Corp., Charlotte, NC; Yotta Networks, Plano, TX; Zaffire, Inc., San Jose, CA; Cohen Communications New York, NY; Crescendo Ventures, Palo Alto, CA; Guidecom Systems, Chantilly, VA; IIR, London, United Kingdom; Kanazia Digital Systems Private Limited, Mumbai, India; Logical Solutions AG, Zurich, Switzerland; State of California, Sacramento, CA; Technology Research institute, Sudbury, MA; Tele-Consulting GMBH, Diessen, Germany; University College of London, Bath, United Kingdom; XDL Intervest Capital Corporation, Toronto, Ontario, Canada; EMIS-Emerging Information Systems, Inc., Morrisville, NC; Ingenium Systems, Ennis, Ireland; and Passport Corporation, Paramus, NJ.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on December 3, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2002 (67 FR 10762).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–23703 Filed 9–17–02; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs (1130).

Date/Time: October 7, 2002; 8:30 a.m. to 5 p.m., October 8, 2002; 8:30 a.m. to 2 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room: 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Brenda Williams, Office of Polar Programs (OPP), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8030.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the polar research community; to provide advice to the Director of OPP on issues related to long range planning, and to form *ad hoc* subcommittees to carry out needed studies and tasks.

Agenda: Discussion of NSF-wide initiatives, long-range planning and GPRA.

Dated: September 12, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02–23687 Filed 9–17–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–313, 368, 416, 003, 247, 286, 333, 293, 458, 271, and 382]

Entergy Operations, Inc., Entergy Nuclear Operations, Inc., Arkansas Nuclear One, Units 1 and 2; Grand Gulf Nuclear Station; Indian Point Nuclear Station, Units 1, 2 and 3; James A. Fitzpatrick Nuclear Power Plant; Pilgrim Nuclear Power Station; River Bend Station; Vermont Yankee Nuclear Power Plant; and Waterford Steam Electric Station, Unit 3; Exemption

1.0 Background

Entergy Operations, Inc. and Entergy Nuclear Operations, Inc. (the licensees) are the holders of Renewed Facility Operating License No. DPR–51; Facility Operating License Nos. NPF–6 and NPF–29; Provisional Operating License No. DPR–5; and Facility Operating License Nos. DPR–26, DPR–64, DPR–59, DPR–35, NPF–47, DPR–28, and NPF–38, which authorize operation of Arkansas Nuclear One, Units 1 and 2; Grand Gulf Nuclear Station; Indian Point Nuclear Station, Units 1, 2 and 3; James A. Fitzpatrick Nuclear Power Plant; Pilgrim Nuclear Power Station; River Bend Station; Vermont Yankee Nuclear Power Plant; and Waterford Steam Electric Station, Unit 3. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facilities consist of pressurized and boiling water reactors located in Pope County, Arkansas; Claiborne County, Mississippi; Westchester County, New York; Oswego County, New York; Plymouth County, Massachusetts; West Felciana Parish, Louisiana; Windham County, Vermont; and Saint Charles Parish, Louisiana. (The operating authority of Provisional Operating License No. DPR–5 for Indian Point Nuclear Station, Unit 1, was revoked by Commission Order dated June 19, 1980).

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), Part 20, Section 20.1003 states that the definition of total effective dose equivalent (TEDE) is the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). The proposed exemption would change the definition of TEDE to mean the sum of the effective dose equivalent or the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). The licensee requests the exemption because the current method of calculating TEDE, under certain conditions, can significantly overestimate the dose received.

In summary, the licensee's application dated July 20, 2001, as supplemented by letter dated June 13, 2002, requests an exemption from the 10 CFR 20.1003 definition of TEDE.

3.0 Discussion

Pursuant to 10 CFR 20.2301, the Commission may, upon application by a licensee or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 20 if it determines the exemptions are authorized by law and would not result in undue hazard to life or property.

The staff examined the licensee's rationale to support the exemption request and concluded that the new method for calculating TEDE, under certain conditions, is a more accurate means of estimating worker radiation exposure and therefore would not result in undue hazard to the workers. The basis for this is as follows.

4.0 Regulatory Evaluation

By letter dated July 20, 2001, as supplemented by letter dated June 13, 2002, the licensee requested an exemption from the current definition, and the approval to use an alternate definition, of TEDE in 10 CFR 20.1003. The licensee requested that the definition of TEDE, as used in 10 CFR 20.1003 (*i.e.*, for the purpose of complying with the dose recording requirements, dose reporting requirements, or the dose limits), be changed to mean the sum of the effective dose equivalent or the deep dose equivalent (for external exposures), and the committed effective dose equivalent (for internal exposures). The licensee also requested approval to use a method for estimating the effective dose equivalent for external exposures (EDE_{ex}) published by the Electric Power Research Institute (EPRI) in Technical Report TR–101909, Volumes 1 and 2, and the Implementation Guide TR–109446. (These EPRI documents were provided on the docket as enclosures to a previous May 1, 2001, application from the licensee, which was superseded by the July 20, 2001, application). The effect of granting this request would be to allow the licensee the option to control TEDE using EDE_{ex} in those cases where it is a more accurate predictor of the risk from occupational radiation exposure.

The radiation protection approach and dose limits contained in 10 CFR Part 20 are based on the recommendations of the International Commission on Radiation Protection (ICRP) in their 1977 publication No. 26 (ICRP 26). For stochastic effects, the ICRP-recommended dose limitation is based on the principle that the risk should be equal, whether the whole body is irradiated uniformly or whether there is non-uniform irradiation (such as when radioactive materials are taken into the body and, depending on their physical and chemical properties, concentrate in certain tissues and organs). This condition will be met if

$$\Sigma_T \omega_T H_T \leq H_{wb,L}$$

where ω_T is a weighting factor representing the proportions of the stochastic risk resulting from tissue (T) to the total risk, when the whole body is irradiated uniformly; H_T is the annual dose equivalent in tissue (T); and $H_{wb.L}$ is the recommended annual dose-equivalent limit for uniform irradiation of the whole body, namely 5 rem (50 mSv). The sum $\Sigma_T \omega_T H_T$ is called effective dose equivalent (EDE). The values for ω_T are given in ICRP 26, for the various tissues (T), and are codified in 10 CFR Part 20.

For the purposes of implementing workplace controls, and due to the difference in dosimetry, 10 CFR Part 20 breaks this total EDE, or TEDE, into two components: (1) Dose resulting from radioactive sources internal to the body, and (2) dose resulting from sources external to the body. For radioactive material taken into the body, the occupational dose limit is based on the resulting dose equivalent integrated over 50 years (H_{50}) of exposure such that

$$\Sigma_T \omega_T H_{50,T} \leq H_{wb,L}$$

This quantity $\Sigma_T \omega_T H_{50,T}$ is called the Committed Effective Dose Equivalent (CEDE) in 10 CFR Part 20.

Demonstrating compliance with the dose limits from internal exposures is accomplished using direct measurements of concentrations of radioactivity in the air in the work areas, or quantities of radionuclides in the body, or quantities of radionuclides excreted from the body, or a combination of these. Having determined the quantities of radionuclides present or taken into the body, these can be compared to secondary or tertiary limits (*e.g.*, Annual Limits on Intake or Derived Air Concentrations) listed in Appendix B to 10 CFR Part 20. These secondary and tertiary limits have been calculated using standard assumptions of the physical and chemical forms of the radionuclides, the standard physiological parameters from the Reference Man, and the bio-kinetic models adopted in ICRP 26. Alternatively, the regulations allow the licensee to adjust certain of these standard assumptions and calculate CEDE directly, using appropriate models.

The common practice for determining radiation dose from external sources is to measure the radiation intensity at the surface of the body with a monitoring device (dosimeter) calibrated to read in terms of a tissue dose equivalent at a specified tissue depth. In 1991, when 10 CFR Part 20 was revised to adopt the ICRP 26 recommendations on limits and controls, there was little guidance on how to determine the dose to the several tissues necessary to calculate EDE_{ex}. It is impractical to separately monitor (or measure) the dose received by the various organs and tissues that contribute to TEDE. As a practical, conservative simplification, 10 CFR Part 20 limits the dose from external sources in terms of Deep Dose Equivalent (DDE). The DDE is the dose equivalent at a tissue depth of one centimeter, and is required (by 10 CFR Part 20.1201(c)) to be determined for the part of the body receiving the highest exposure. The TEDE annual limit is met if

$$DDE + \Sigma_T \omega_T H_{50,T} \leq 5 \text{ rem (50 mSv)}.$$

In addition to the annual limit on TEDE, 10 CFR Part 20 provides a non-stochastic annual limit of 50 rem (0.5 Sv) for each individual tissue such that

$$DDE + H_{50,T} \leq 50 \text{ rem (0.50 Sv)}$$

for all tissues except the skin and lens of the eye.

Using the highest DDE, to bound the individual tissue doses from radioactive sources outside the body, generally results in a slightly conservative estimate of EDE_{ex} from uniform exposures; however, it can be overly conservative for non-uniform exposure situations. Since many high-dose jobs at nuclear power plants are performed under non-uniform exposure conditions, this can lead to a significant overestimation of the actual TEDE dose, and the risk, to the workers. To address this issue, the licensee has requested

approval to provide a more accurate dose assessment by replacing DDE with EDE_{ex} when calculating TEDE from non-uniform exposures, where the EDE_{ex} is determined with a method developed by the EPRI.

In developing this method, the EPRI investigators used mathematical equations developed by Cristy and Eckerman to model standard, adult human male and female subjects (phantoms). The Monte Carlo radiation transport computer code MCNP was used to calculate the dose to individual tissues modeled in the phantoms, and simulated dosimeter readings, for a range of different exposure geometries. Dosimeters with an isotropic response were modeled at several locations on the surface of the phantoms. Both broad beam and point radiation sources (with selected photon energies) were considered. Indicated doses (*e.g.*, simulated dosimeter readings) and the actual EDE_{ex} (*e.g.*, the sum of the products of the calculated phantom tissue doses and their respective ICRP 26 weighting factors) were calculated for photons incident on the phantoms from various locations. Empirical algorithms were developed to relate the EDE_{ex} resulting from the full range of exposure situations to the indicated doses that could be measured at the surface of the body. Two algorithms were developed to estimate EDE_{ex} from just two dosimeters worn on the trunk of the whole body (front and back, respectively). The first algorithm is a simple, non-weighted averaging of the front and back dosimeter readings. The second algorithm weights the higher of the two dosimeter readings.

5.0 Technical Evaluation

The staff reviewed the technical descriptions of the EPRI method for estimating EDE_{ex}; the resulting data and conclusions contained in Technical Report TR–101909, Volumes 1 and 2; the Implementation Guide TR–109446; and supporting technical papers published by the principal EPRI investigators. The staff also performed independent calculations to verify a sampling of the results tabulated in these documents.

Table 8 in TR–101909, Volume 2, provides a summary of the EDE_{ex} and dosimeter (front and back) readings calculated for parallel beams and point sources used to develop the EPRI algorithms. The staff noted that the magnitude of the units for the parallel beam dose factors listed in Table 8 are low by five orders of magnitude (*e.g.*, ''E–15 rad-cm squared per photon'' instead of the correct ''E–10 rad-cm squared per photon''). The licensee verified, in its June 13, 2002, supplemental letter, that this is a typographical error in the EPRI document. However, this error does not affect the conclusions drawn from the data. The licensee has stated that they will not use the specific dose factors listed in Table 8 to calculate EDE_{ex}.

The EPRI work indicates that a single dosimeter (calibrated to read DDE) worn on the chest provides a reasonably accurate estimate of EDE_{ex} when the individual is exposed to a number of randomly distributed radiation sources during the monitoring period. This is consistent with current allowable dosimetry practices and requires no special approval. The alternate definition of TEDE requested would allow the licensee the option to monitor worker dose with a single DDE measurement, as currently required, or to control TEDE using EDE_{ex} (as determined by the EPRI two-badge method). This would benefit the licensee in situations where monitoring the highest DDE would require moving or supplementing the single badge.

The data presented in the EPRI reports indicate that the weighted, two-dosimeter algorithm provides a reasonably conservative estimate of EDE_{ex}. However, the non-weighted algorithm does not always give a conservative result. The licensee has stated that it will only use the weighted, two-dosimeter algorithm such that

$$EDE_{ex} = \tfrac{1}{2}\,(MAX + \tfrac{1}{2}\,(R_{front} + R_{back}))$$

where R_{front} is the reading of the dosimeter on the front of the body, R_{back} is the reading of the dosimeter on the back of the body, and MAX is the higher of the front or back dosimeter readings.

Additional issues and limitations noted in the staff's review are included in the following paragraphs.

Partial-body irradiations that preferentially shield the dosimeter could bias the EPRI method results in the non-conservative direction. The licensee has stated that they will ensure that the dosimeters are worn so that at least one of the two badges ''sees'' the source(s) of radiation. In other words, the radiological work will be conducted and the dosimeters worn in such a way, so that no shielding material is present between the radioactive source(s) and the whole body, that would cast a shadow on the dosimeter(s) and not over other portions of the whole body.

Isotropic dosimeters (*e.g.*, dosimeters that respond independently of the angle of the incident radiation) are impractical and not widely available commercially. Therefore, the licensee must implement the EPRI method using dosimeters that will have an angular-dependent response. If the dosimeter reading decreases more rapidly than EDE_{ex}, with increasing exposure angle, the resulting EDE_{ex} estimate will be biased in the non-conservative direction. The EPRI principle investigators have addressed this issue of angular dependance in their published technical paper entitled, ''A Study of the Angular Dependence Problem In Effective Dose Equivalent Assessment'' (Health Physics Volume 68. No. 2, February 1995, pp. 214–224). The licensee has stated that the dosimeters used to estimate EDE_{ex} will have demonstrated angular response characteristics at least as good as that specified in this technical paper. In addition, the dosimeters will be calibrated to indicate DDE at the monitored location, to ensure their readings reflect electronic equilibrium conditions.

The EPRI method for estimating EDE_{ex} from two dosimeter readings is not applicable to exposure situations where the sources of radiation are nearer than 12 inches (30 cm) from the surface of the body. Tables 5 thru 7 in EPRI TR-101909, Volume 2, provide calculated EDE_{ex} values resulting from exposure to point sources in contact with the torso of the body. However, the staff review determined that the information provided in these tables does not bound all of the pertinent point source exposure situations. The licensee has stated that the use of EDE_{ex} to determine compliance with the TEDE limit, resulting from point sources (*i.e.*, hot particles) on or near the surface of the body, is outside the scope of this request.

The exemption applies only to the TEDE definition and calculations. It does not modify the dose limits for any individual organ or tissue specified in, or method for complying with, 10 CFR Part 20. Also, when DDE is used to calculate TEDE under the revised definition, the requirement that it be for the part of the body receiving the highest exposure in 10 CFR 20.1201(c) is applicable.

6.0 Evaluation Summary

The staff concludes that calculating TEDE using this EDE_{ex} in place of DDE provides a more accurate estimate of the risk associated with the radiation exposures experienced by radiation workers at a nuclear power plant. Additionally the staff finds that the proposal to limit TEDE such that

$$EDE_{ex} + CEDE \leq 5 \text{ rem}$$

is consistent with the basis for the limits in 10 CFR Part 20. Therefore, subject to the limitations noted above, defining TEDE to mean the sum of EDE_{ex} or DDE

(for external exposures) and CEDE (for internal exposures), in lieu of the current 10 CFR 20.1003 definition, is acceptable.

Additionally, the staff concludes that the methods for estimating EDE_{ex} described in EPRI Technical Report TR–101909, Volumes 1 and 2, and Implementation Guide TR–109446 are based on sound technical principles. The proposed EPRI weighted, two-dosimeter algorithm provides an acceptably conservative estimate of EDE_{ex} with a degree of certainty that is comparable to that inherent in the methods allowed by 10 CFR Part 20 for estimating CEDE. Therefore, subject to the limitations noted above, using the EPRI weighted, two-dosimeter algorithm so that

$$EDE_{ex} = \frac{1}{2} (MAX + \frac{1}{2} (R_{front} + R_{back}))$$

for the purposes of demonstrating compliance with 10 CFR 20.1003 is acceptable.

7.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption is authorized by law and would not result in undue hazard to life or property. Therefore, the Commission hereby grants Entergy Operations, Inc. and Entergy Nuclear Operations, Inc. an exemption from the requirements of 10 CFR 20.1003 for Arkansas Nuclear One, Units 1 and 2; Grand Gulf Nuclear Station; Indian Point Nuclear Station, Units 1, 2 and 3; James A. Fitzpatrick Nuclear Power Plant; Pilgrim Nuclear Power Station; River Bend Station; Vermont Yankee Nuclear Power Plant; and Waterford Steam Electric Station, Unit 3. The exemption changes the definition of TEDE to mean the sum of EDE_{ex} or DDE (for external exposures) and CEDE (for internal exposures). This Exemption is granted to allow the licensee the option to monitor worker dose using EDE_{ex} based on the following conditions:

1. Only the EPRI weighted, two-dosimeter algorithm will be used such that

$$EDE_{ex} = \frac{1}{2} (MAX + \frac{1}{2} (R_{front} + R_{back}))$$

where R_{front} is the reading of the dosimeter on the front of the body, R_{back} is the reading of the dosimeter on the back of the body, and MAX is the higher of the front or back dosimeter readings.

2. The radiological work will be conducted and the dosimeters worn in such a way, so that no shielding material is present between the radioactive source(s) and the whole body, that would cast a shadow on the dosimeter(s) and not over other portions of the whole body.

3. The dosimeters used to estimate EDE_{ex} will have demonstrated angular response characteristics at least as good as that specified in the technical paper entitled, ''A Study of the Angular Dependence Problem In Effective Dose Equivalent Assessment'' (Health Physics Volume 68. No. 2, February 1995, pp. 214–224). Also, the dosimeters will be calibrated to indicate DDE at the monitored location, to ensure their readings reflect electronic equilibrium conditions.

4. The EPRI method for estimating EDE_{ex} from two dosimeter readings is not applicable to exposure situations where the sources of radiation are nearer than 12 inches (30 cm) from the surface of the body.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 56603, dated September 4, 2002).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of September 2002.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–23691 Filed 9–17–02; 8:45 am]

BILLING CODE 7590–01–P

SUNSHINE ACT NOTICE

Nuclear Regulatory Commission

DATE: Weeks of September 16, 23, 30, October 7, 14, 21, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 16, 2002.

There are no meetings scheduled for the Week of September 16, 2002.

Week of September 23, 2002—Tentative

There are no meetings scheduled for the Week of September 23, 2002.

Week of September 30, 2002—Tentative

Tuesday, October 1, 2002

9:25 a.m. Affirmation Session (Public Meeting), (If needed)

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contract: John Buckley, 301–415–6607)

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Wednesday, October 2, 2002

10 a.m. Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

Week of October 7, 2002—Tentative

There are no meetings scheduled for the Week of October 7, 2002.

Week of October 14, 2002—Tentative

There are no meetings scheduled for the Week October 14, 2002.

Week of October 21, 2002—Tentative

There are no meetings scheduled for the Week of October 21, 2002.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1294. Contact person for more information: R. Michelle Schroll (301) 415–1662.

Additional Information

The Discussion of Management Issues (Closed—Ex. 2) previously scheduled on Thursday, October 3, 2002, at 9 a.m. has been rescheduled on Thursday, November 14, 2002 at 2 p.m.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://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: September 12, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02–23802 Filed 9–16–02; 12:00 pm]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Locating and Paying Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management

and Budget (''OMB'') extend its approval (with modifications) of a collection of information under the Paperwork Reduction Act. The purpose of the information collection is to enable the PBGC to pay benefits to participants and beneficiaries in plans covered by the PBGC insurance program. This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Copies of the collection of information may be obtained without charge by visiting or writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by calling that office at 202–326–4040 during normal business hours. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4040).

DATES: Comments should be submitted by November 18, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC intends to request that OMB extend its approval (with modifications) of a collection of information needed to pay participants and beneficiaries who may be entitled to pension benefits under a defined benefit plan that has terminated. The collection consists of information participants and beneficiaries are asked to provide in connection with an application for benefits. In addition, in some instances, as part of a search for participants and beneficiaries who may be entitled to benefits, the PBGC requests individuals to provide identifying information that the individual would provide as part of an initial contact with the PBGC. All requested information is needed to enable the PBGC to determine benefit entitlements and to make appropriate payments. The collection also includes pages on the PBGC's web site, www.pbgc.gov, that, for certain large plans, provide respondents with specific information about their pension plan and enable them to obtain a rough estimate of their benefit, either by using an online benefit estimate calculator or by completing an online form and submitting it to the PBGC to compute an estimate.

The existing collection of information under the regulation was approved under control number 1212–0055 (expires February 28, 2003). The PBGC intends to request that OMB extend its approval for another three years. 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 PBGC estimates that 125,750 benefit application or information forms will be filed annually by individuals entitled to benefits from the PBGC and that the associated burden is 69,500 hours (an average of about one-half hour per response) and about $46,500. The PBGC further estimates that 5,500 individuals annually will provide the PBGC with identifying information as part of an initial contact and that the associated burden is 1,500 hours (an average of about one-quarter hour per response) and $1,100. Thus, the total estimated annual burden associated with this collection of information is 71,000 hours and about $47,600.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued at Washington, DC, this 12th day of September, 2002.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 02–23688 Filed 9–17–02; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notice of Failure to Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Notice of Failure to Make Required Contributions (OMB control number 1212–0041; expires January 31, 2003). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by November 18, 2002.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Copies of the collection of information may be obtained without charge by visiting or writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by calling that office at 202–326–4040 during normal business hours. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4040). The regulations, forms, and instructions relating to the notice of failure to make required contributions may be accessed on the PBGC's Web site at *http://www.pbgc.gov*.

FOR FURTHER INFORMATION CONTACT: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

SUPPLEMENTARY INFORMATION: Section 302(f) of the Employee Retirement Income Security Act of 1974 (''ERISA'') and section 412(n) of the Internal Revenue Code of 1986 (''Code'') impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program if (1) any person fails to make a required payment

when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funded current liability percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons who are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only the PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. Therefore, ERISA and the Code require persons committing payment failures to notify the PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related filing instructions, implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR 4043.81.

The collection of information under the regulation has been approved through January 31, 2003, by OMB under control number 1212–0041. The PBGC intends to request that OMB extend approval for another three years. 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 PBGC estimates that it will receive 30 Form 200 filings per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 64.5 hours and $12,900.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC, this 12th day of September, 2002.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 02–23689 Filed 9–17–02; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46491; File No. SR–CHX–2002–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Membership Dues and Fees

September 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 30, 2002, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its membership dues and fees schedule (''Schedule''), effective July 2002, to reduce the fixed fee charged to specialists trading Nasdaq/NM securities. The text of the proposed rule change is available upon request from the Office of the Secretary, CHX, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the Schedule by reducing the fixed fees charged specialists who trade Nasdaq/NM securities. Specifically, the proposal would charge a monthly fixed fee for each specialist firm trading Nasdaq/NM securities, calculated by taking the lowest monthly fixed fee charged that firm for the period January through June 2002, and reducing it by the Nasdaq/NM market data rebates earned by the firm in June 2002. This fee would first be applied for the month of July 2002 and thus would be included in monthly bills distributed in September 2002. The Exchange currently anticipates that the fee would remain in effect until December 31, 2002, but recognizes that it might be changed for a variety of reasons, such as to accommodate the entry of a new member firm into the trading of Nasdaq/NM Securities.[3]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] If a firm that has not previously traded Nasdaq/NM securities seeks, and receives, an appointment to act as specialist for one or more of those securities, that firm could not be charged a fee under this proposal until a new fee has been approved by the Exchange's Finance Committee and the Board.

other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[4]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–2002–23 and should be submitted by October 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–23722 Filed 9–17–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 4128]

Culturally Significant Object Imported for Exhibition Determinations: ''Deceptions and Illusions: Five Centuries of Trompe L'Oeil Painting''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Deceptions and Illusions: Five Centuries of Trompe L'Oeil Painting,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The National Gallery of Art, Washington, DC from on or about October 13, 2002 to on or about March 2, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Orde F. Kittrie, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/401–4779). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 11, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–23809 Filed 9–17–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

Notice of Opportunity for Public Comment on Surplus Property Release at George M. Bryan Field Airport, Starkville, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47135(c), notice is being given that the FAA is considering a request from the City of Starkville to waive the requirement that a 0.77 acre parcel of surplus property, located at the George M. Bryan Field Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before October 18, 2002.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the The Honorable Mack D. Rutledge, Mayor of Starkville, Mississippi at the following address: City Hall, 101 Lampkin Street, Starkville, MS 38902–0310.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9882. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by City of Starkville, MS to release 0.77 acres of surplus property at the George M. Bryan Field Airport. The City of Starkville will acquire the property for fair market value and construct a public-use road on it. The property is located on the West side of the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the City of Starkville, Mississippi.

Issued in Jackson, Mississippi on September 10, 2002.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 02–23710 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee open meting. [Please Note: New Location for COMSTAC meeting]

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, October 31, 2002, from 8 a.m. to 4:30

[4] 15 U.S.C. 78s(b)(3)(C).

[5] 17 CFR 200.30–3(a)(12).

p.m. at the Holiday Inn-Capitol, 500 C Street SW, Washington, DC, in the Columbia Room. This will be the thirty-sixth meeting of the COMSTAC.

The agenda for the meeting will include an industry update on the Evolved Expendable Launch Vehicle program; a special presentation on *The States and Space*; and an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]). Meetings of the COMSTAC Working Groups (Technology and Innovation, Reusable Launch Vehicle, Risk Management, and Launch Operations and Support) will be held on Wednesday, October 30, 2002. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION, CONTACT: Brenda Parker (AST–200), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 385–4713; E-mail *brenda.parker@faa.dot.gov*.

Issued in Washington, DC, September 12, 2002.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 02–23708 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–01–115–32]

Use of Industry Standards In Seat Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy statement.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the final policy for the use of industry standards to address certain certification issues for transport airplane seats. This policy is specifically relevant to certification of seats with an in-arm video system feature.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airframe/Cabin Safety Branch, ANM–115, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2136; fax (425) 227–1320; e-mail: *jeff.gardlin@faa.gov.*

SUPPLEMENTARY INFORMATION: A notice of proposed policy statement no. ANM–01–115–32, was published June 25, 2001 (66 FR 33736). No comments were received. The final policy is issued with editorial changes only.

The final policy is available on the Internet at the following address: *http://www.faa.gov/certification/aircraft/anminfo/finalpaper.cfm.* If you do not have access to the Internet, you can obtain a copy of the final policy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, on August 28, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–23709 Filed 9–17–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20993]

Laidlaw Inc.—Acquisition of Control–C. Seeley's Bus Lines Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: In an application filed under 49 U.S.C. 14303, Laidlaw, Inc. (Laidlaw), a noncarrier, through its indirectly controlled subsidiary, Laidlaw Transit Ltd. (Transit Ltd.) (collectively referred to as Laidlaw), seeks to acquire indirect control of C. Seeley's Bus Lines Ltd. (Seeley's Bus), a motor passenger carrier. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by November 4, 2002. Applicant may file a reply by November 18, 2002. If no comments are filed by November 4, 2002, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20993 to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Fritz R. Kahn, 1920 N Street, NW., (8th Floor), Washington, DC 20036–1601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Seeley's Bus is a motor passenger carrier that is authorized to provide special and charter operations pursuant to federally issued authority in Docket No. MC–203827. Laidlaw submits that, pursuant to a voting trust agreement, dated May 31, 2002, Transit Ltd. has agreed to acquire all of the outstanding shares of stock of Seeley's Bus.

Laidlaw directly or indirectly controls a number of motor passenger carriers, including Transit Ltd. (MC–102189). Laidlaw's motor passenger carrier subsidiaries, with the exception of Greyhound Lines, Inc. (Greyhound), are largely limited to charter and special operations in the United States. Greyhound holds federally issued operating authority in Docket No. MC–1515 and provides mainly nationwide, scheduled regular-route operations. As a result of the proposed acquisition, Laidlaw asserts that Seeley's Bus will be able to offer its Ontario-originated passengers tour and sightseeing services over an expanded area within the United States that is served by Laidlaw's other affiliated motor passenger carriers. Laidlaw states that the affiliation of Seeley's Bus with its other Laidlaw affiliates will ensure that Seeley's Bus will have an adequate number of buses to meet the needs of the traveling public. At the same time, Seeley's Bus will have the opportunity to make its buses available to other Laidlaw affiliates when those buses are underutilized.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicant has shown that the proposed acquisition of control will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges

and no changes in employment. See 49 CFR 1182.2(a)(7). Additional information may be obtained from applicant's representative.

On the basis of the application, we find that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at: *''http://www.stb.dot.gov.''*

This decision will not significantly affect the quality of the human environment or the conversation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on November 4, 2002, unless timely opposing comments are filed.

4. A copy of this notice will served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: September 9, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–23469 Filed 9–17–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34246]

K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P.—Continuance in Control Exemption—AN Railway, L.L.C.

K. Earl Durden (Durden), Rail Management Corporation (RMC),[1] and Rail Partners, L.P. (Partners) (collectively, applicants), have filed a verified notice of exemption to continue in control of AN Railway, L.L.C. (ANLLC), upon ANLLC's becoming a rail carrier.

The transaction was expected to be consummated on or after August 30, 2002, the effective date of the exemption (7 days after the notice was filed).

This transaction is related to STB Finance Docket No. 34247, *AN Railway, L.L.C.—Lease and Operation Exemption—Apalachicola Northern Railroad Company*, where ANLLC seeks to lease and operate a rail line from Apalachicola Northern Railroad Company (ANRR).

At the time they filed this notice, Durden, RMC, and Partners controlled 13 Class III rail carriers located in Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, North Carolina, Tennessee, Texas, and Wisconsin. They are: Atlantic & Western Railway, L.P.; The Bay Line Railroad, L.L.C.; Copper Basin Railway; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; KWT Railway, Inc.; Little Rock & Western Railway, L.P.; Tomahawk Railway, L.P.; Valdosta Railway, L.P.; Western Kentucky Railway, L.L.C.; Wilmington Terminal Railroad, L.P.; and M&B Railroad, L.L.C. These rail carriers are referred to as the RMC Rail Group.

Applicants state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the 14 railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2). The purpose of the transaction is to enable ANLLC to benefit from Applicants' capital support and overall management and corporate direction and expertise. ANLLC will continue handling freight for customers ANRR previously served, without material changes in the level or quality of transportation service provided.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324–25 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34246, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on: Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: September 11, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–23696 Filed 9–17–02; 8:45 am]

BILLING CODE 4915–00–P

[1] RMC's former corporate name was Rail Management & Consulting Corporation.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34247]

AN Railway, L.L.C.—Lease and Operation Exemption—Apalachicola Northern Railroad Company

AN Railway, L.L.C. (ANLLC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate approximately 96 miles of rail line presently owned by the Apalachicola Northern Railroad Company (ANRR) [1] between milepost 0 at Port St. Joe, FL, and milepost 96 at Chattahoochee, FL. The line to be

[1] ANLLC has reached an operating agreement with ANRR on terms to govern the lease of the Port St. Joe-Chattahoochee line. After consummation of the exemption, ANLLC will be the operator of the line.

acquired in this transaction has 12 stations that are located in Florida at: Port St. Joe (milepost 0); Apalachicola (milepost 20); Borrow Pit (milepost 28); Beverly (milepost 29); Sumatra (milepost 40); Wilma (milepost 50); Vilas (milepost 57); Telogia (milepost 67); Hosford (milepost 70); Greensboro (milepost 84); Hardaway (milepost 88); and Chattachoochee (milepost 96). ANLLC will operate two round-trip road trains per week between Port St. Joe and Chattahoochee, with extra trains and switching service available as needed to meet shippers' requirements; will serve Gulf transloading facilities at Port St. Joe; and will interchange traffic with CSX Transportation, Inc., at Chattachochee, as ANRR does today. Also, to facilitate operations, ANLLC will purchase from ANRR 6 locomotives, 148 railroad cars, and various vehicles, articles of communication and rail maintenance equipment and supplies, and other transportation-related personalty. The items purchased comprise substantially all of ANRR's equipment and rolling stock.

ANLLC certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

The transaction was scheduled to be consummated on or after August 30, 2002, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 34246, *K. Earl Dudren, Rail Management Corporation, and Rail Partners, L.P.—Continuance in Control Exemption—AN Railway, L.L.C.*, wherein K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P., have concurrently filed a verified notice to continue in control of ANLLC upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34247, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: September 11, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–23695 Filed 9–17–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34249]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP)[1] between BNSF milepost 6.1 near Fort Worth, TX, and BNSF milepost 218.1 near Temple, TX, a distance of approximately 129.2 miles.[2]

The transaction is scheduled to be consummated on September 9, 2002. The temporary trackage rights will allow UP to facilitate maintenance work on its lines.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34249, must be filed with the Surface Transportation Board, 1925 K Street N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert T. Opal, General Commerce Counsel, 1416 Dodge Street, Room 830, Omaha, NE 68179.

[1] On August 30, 2002, UP concurrently filed a petition for exemption in STB Finance Docket No. 34249 (Sub-No. 1), *Union Pacific Railroad Company-Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP requests that the Board permit the proposed temporary overhead trackage rights arrangement described in this notice to expire on October 24, 2002. That petition will be addressed by the Board in a separate decision.

[2] The milepost numbers do not reflect the actual length of the BNSF line segment because of intermediate milepost changes.

Board decisions and notices are available on our Web site at *''www.stb.dot.gov.''*

Decided: September 6, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–23377 Filed 9–17–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment request

September 10, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Correction

This is a correction to FR Doc. 02–12722, Filed 05–20–02; 8:45 a.m., for a Department of the Treasury, Internal Revenue Service information collection. The corrected information is as follows:

OMB Number: 1545–1781.

Title: Heavy Highway Vehicle Use Tax Return for Filers With a Single Vehicle.

Corrected Description: Form 2290–EZ may be used instead of Form 2290 to pay the tax due on a highway motor vehicle with a taxable gross weight of more than 75,000 pounds.

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 02–23673 Filed 9–17–02; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 10, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, P. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury

Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 18, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1785.
Form Number: IRS Form 8884.
Type of Review: Revision.
Title: New York Liberty Zone Business Employee Credit.
Description: Form 8884 is used by business owners to request the Liberty Zone Credit for wages paid to qualified employees. This form was created by section 301 of the Job Creation and Worker Assistance Act of 2002, Public 107–147.
Respondents: Business or other for-profit, State, individuals or households, not-for-profit institutions, farms.
Estimated Number of Respondents/ Recordkeepers: 15,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—9 hr., 48 min.
Learning about the law or the form—1 hr., 00 min.
Preparing and sending the form to the IRS—1 hr., 12 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 180,000 hours.
Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.
OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Mary A. Able,
Departmental Reports Management Officer.
[FR Doc. 02–23674 Filed 9–17–02; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 10, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 18, 2002, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0295.
Notice Number: Notice 210.
Type of Review: Extension.
Title: Preparation Instructions for Media Labels.
Description: Notice 210, Preparation Instructions for Media Labels, instructs the filers on how to prepare their own pressure sensitive label. This label must be attached to each and every piece of magnetic media to identify specific items needed so that the media can be processed by the Internal Revenue Service.
Respondents: Business or other for-profit, not-for-profit institutions.
Estimated Number of Respondents: 150,000.
Estimated Burden Hours Per Respondent: 5 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 12,765 hours.

OMB Number: 1545–0619.
Form Number: IRS Form 6765.
Type of Review: Revision.
Title: Credit for Increasing Research Activities.
Description: Internal Revenue Code (IRC) section 38 allows a credit against income tax (Determined under IRC section 41) for an increase in research activities in a trade or business. Form 6765 is used by businesses and individuals engaged in a trade or business to figure and report the credit. The data is used to verify that the credit claimed is correct.
Respondents: Business or other for-profit, individuals or households.
Estimated Number of Respondents/ Recordkeepers: 23,947.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—16 hr., 58 min.
Learning about the law or the form—1 hr., 40 min.
Preparing and sending the form to the IRS—2 hr., 2 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 495,943 hours.

OMB Number: 1545–1210.
Form Number: IRS Form 8379.
Type of Review: Extension.
Title: Injured Spouse Claim and Allocation.
Description: A non-obligated spouse may file Form 8379 to request the non-obligated spouse's share of a joint income tax refund that would otherwise be applied to the past-due obligation owed to a state or federal agency by the other spouse.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 300,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 min.
Learning about the law or the form—10 min.
Preparing the form—58 min.
Copying, assembling, and sending the form to the IRS—24 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 531,000 hours.

OMB Number: 1545–1350.
Form Number: IRS Form 9465.
Type of Review: Extension.
Title: Installment Agreement Request.
Description: Form 9465 is used by the public to provide identifying account information and financial ability to enter into an installment agreement for payment of taxes. The form is used by IRS to establish a payment plan for taxes owed to the federal government, if appropriate, and to inform taxpayers about the application fee and their financial responsibilities.
Respondents: Individuals or households.
Estimated Number of Respondents: 760,000.
Estimated Burden Hours Per Respondent:
Learning about the law or the form—16 min.
Preparing the form—26 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 805,600 hours.

OMB Number: 1545–1517.
Form Number: IRS Form 1099–MSA.
Type of Review: Revision.
Title: Distributions from an Archer MSA or Medicare+Choice MSA.
Description: This form is used to report distributions from a medical savings account as set forth in section 220(h).
Respondents: Business or other for-profit.
Estimated Number of Respondents: 10,336.
Estimated Burden Hours Per Respondent: 8 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 3,618 hours.

OMB Number: 1545–1662.

Regulation Project Number: REG–121063–97 Final.

Type of Review: Extension.

Title: Averaging of Farm Income.

Description: Code section 1301 allows an individual engaged in a farming business to elect to reduce his or her regular tax liability by treating all or a portion of the current year's farming income as if it had been earned in equal proportions over the prior three years. The regulation provides that the election for averaging farm income is made by filing Schedule J of Form 1040, which is also used to record and total the amount of tax for each year of the four year calculation.

Respondents: Farms, individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–3428.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 02–23675 Filed 9–17–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Dairy Protein Blends

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party requesting the reclassification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain imported dairy protein blends. The petitioner contends that the imported dairy products are being mischaracterized as milk protein concentrates and have been incorrectly classified in subheading 0404.90.1000 HTSUS, with a general rate of duty of 0.37¢ per kilogram. Petitioner contends that the products are properly classifiable under various subheadings of heading 0402, HTSUS. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before November 18, 2002.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at 202–572-8768.

FOR FURTHER INFORMATION CONTACT: Peter T. Lynch, General Classification Branch, 202–572–8778.

SUPPLEMENTARY INFORMATION:

Background

This document concerns two Customs rulings on the tariff classification of certain imported dairy protein blends. The imported products that are the subject of the rulings are identified as being a ''milk protein concentrate'' and have, according to the rulings, the following ingredients:

Product 1: Lactose (42.2 percent, +/−0.5 percent), protein (41.5 percent, +/−0.5 percent), ash (8.2 percent, +/−0.5 percent), moisture (4.1 percent, +/−0.3 percent), and fat (2.5 percent, +/−0.5 percent).

Product 2: Protein (41 percent), fat (29 percent), minerals (7 percent), and moisture (6 percent).

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of American producers of dairy products that directly compete with the imported dairy blends requesting that Customs reclassify the imported products. Customs has classified these products under subheading 0404.90.1000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for: ''Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included: Other: Milk protein concentrates'' which has a general duty rate of 0.37 cents per kilogram, and is not subject to a tariff-rate quota. The petition contends that these products are blends, *i.e.*, mixtures of skim milk powder and other dry milk ingredients—such as ''milk protein concentrate''—created, at least in part, to circumvent the tariff rate quotas.

Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Harmonized Commodity Description and Coding System, Explanatory Notes (EN), represent the official interpretation of the Harmonized System at the international level (for the 4 digit headings and the 6 digit subheadings) and facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and the GRI. The EN, although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are indicative of the proper interpretation of these headings. See T.D. 89–80, 54 FR 35127, 35128 (August 23, 1989).

Classification of dairy products is essentially based on the composition of the product. In the present case, direction is also provided by Additional U.S. Note 13 to Chapter 4, which states: ''For the purposes of subheading 0404.90.10, the term ''*milk protein concentrate*'' means any complete milk protein (casein plus lactalbumin) concentrate that is 40 percent or more protein by weight.''

In New York Ruling Letter (NY) 800374, dated July 27, 1994 and NY D83787, dated November 13, 1998, Customs classified two dairy products, both identified by the importer as ''milk protein concentrates,'' in subheading 0404.90.1000, HTSUS, as milk protein concentrates. Both products contain over 40 percent milk protein concentrate. Additionally, one product also contains a significantly higher percentage of fat than naturally occurs in milk. Unfortunately, neither ruling contains information about the method(s) used to produce either product, and the original files were lost in the destruction of the New York Customs House at the World Trade Center on September 11, 2001.

Petitioner contends that neither of the products classified in those rulings should be classified in subheading 0404.90.1000, HTSUS. Petitioner contends that the expression ''complete milk protein'' in Additional U.S. Note 13 requires the presence of both casein and lactalbumin in the same, or very nearly the same proportion, relative to

each other, as they are naturally found in skim milk. Petitioner further contends that the term ''complete'' requires that the product be a unified protein complex that retains the functional properties of the proteins, including both casein and lactalbumin, as they occur in skim milk. Petitioner further contends that the term ''concentrate'' requires that the product have been concentrated—*i.e.*, reduced in volume or bulk by the removal of liquids and other ingredients.

In support of its position, petitioner refers to Customs rulings (HQ 052200, dated September 1, 1977 and HQ 070297, dated October 7, 1982) and legislative history surrounding development of item 118.45, and its addition to the Tariff Schedules of the United States (TSUS), the predecessor to the HTSUS, in 1984, in section 123 of the Tariff and Trade Act of 1984 (Public Law 98–573, 98 Stat. 2955, October 30, 1984).

Petitioner argues that the legislative history and early Customs rulings indicate that the tariff provision for ''milk protein concentrates'' was created to cover products that had been manufactured by means of an ultra-filtration process that isolates all the protein concentrates of non-fat dry milk (NFDM) (casein and lactalbumin) in a single protein complex, while retaining all of their functional properties.

Petitioner states that the expression ''complete milk protein (casein plus lactalbumin) concentrate'' found in Additional U.S. Note 13 ''was intended to cover dairy products (1) that are fully functional (unified) protein complexes, (2) that are undenatured, (3) that retain their functional properties after ultra-filtration, and (4) that are in concentrate form.''

Petitioner maintains that the ultra-filtration process is the only one which produces a product that fits this standard, since the resulting milk protein concentrate product is what remains after the liquid and other ingredients have been removed from the skim milk by filtration. Petitioner argues that dairy protein blends contain various proteins that are not complete or whose functionality has been altered by processing, thus making the resulting product ineligible for classification in subheading 0404.90.1000, HTSUS.

Petitioner asserts that dairy protein blends do not satisfy the definition found in Additional U.S. Note 13 to Chapter 4, HTSUS, and are properly classified as ''milk . . . in powder, granules or other solid forms,'' under subheading 0402.10. 0402.21, or 0402.29, HTSUS, depending on their fat content. As such, they would be subject to tariff rate quotas.

Comments

Pursuant to section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments on the petition from interested parties.

The domestic party petition, as well as all comments received in response to this notice will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552, section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9 a.m. and 4:30 p.m. on regular business days, at the U.S. Customs Service, Office of Regulations and Rulings, Regulations Branch, 5th Floor, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at 202–572–8768.

Authority: This notice is published in accordance with section 175.21(a), Customs Regulations (19 CFR 175.21(a)), 19 U.S.C. 1516.

Robert C. Bonner,

Commissioner of Customs.

Approved: September 13, 2002.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–23757 Filed 9–17–02; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 67, No. 181

Wednesday, September 18, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patents and U.S. Patent Application Concerning Method for Predicting Human Cognitive Performance

Correction

In notice document 02–23003 beginning on page 57412 in the issue of Tuesday, September 10, 2002, make the following corrections:

1. On page 57412, in the third column, under the heading **SUPPLEMENTARY INFORMATION**, in the sixth line, ''facilities'' should read, ''facilitates''.

2. On the same page, in the same column, under the same heading, in the tenth line, ''facilities'' should read, ''facilitates''.

[FR Doc. C2–23003 Filed 9–17–02; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206–AJ62

Locality Pay Areas

Correction

In proposed rule document 02–23061 beginning on page 57536 in the issue of Wedensday, September 11, 2002, make the following correction:

§ 531.602 [Corrected]

On page 57537, in § 531.602, in the first column, after amendatory instruction 2., in the section heading, ''§ 531.603'' should read, ''§ 531.602''.

[FR Doc. C2–23061 Filed 9–17–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
September 18, 2002

Part II

State Justice Institute

Grant Guideline; Notice

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.

ACTION: Proposed grant Guideline.

SUMMARY: This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 2003 State Justice Institute grants, cooperative agreements, and contracts.

DATES: The Institute invites public comment on the Guideline until November 18, 2002.

ADDRESSES: Comments should be mailed to the State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, or e-mailed to *kschwartz@statejustice.org.*

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, or Kathy Schwartz, Deputy Director, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, (703) 684–6100.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.*, as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States.

Issues Highlighted for Public Comment

The Institute proposes a number of major changes in this year's grant program, all of which are rooted in the Board of Directors' desire to maximize the impact of every dollar Congress appropriates to SJI. The Proposed Guideline would:

(1) Eliminate the concept paper step from the Project Grant program;

(2) Focus the Institute's Project Grants on only those topics included in the Guideline's five Special Interest categories;

(3) Require all grantees to provide matching funds to support their SJI-supported projects;

(4) Limit the percentage of a grantee's indirect costs that may be supported by grant funds; and

(5) Place firm limits on both the percentage of grant funds that will be allocated to continuing projects and the length of time SJI will continue to support projects.

A discussion of each change is presented below.

(1) *Elimination of the concept paper step.* As described in more detail in section VI of the Guideline, all applicants seeking Project Grants from the Institute must submit an application of up to 25 pages in length by February 7, 2003. In light of the limited amount of funds available for Project Grants, the Board of Directors wants to minimize the amount of work applicants need to undertake to secure a grant. In addition, by requiring only an application, the Institute can approve grants approximately three months earlier than under the previous process.

(2) *Focused Project Grant program.* In all prior years of the Institute's existence, SJI invited grant proposals on all topics within its broad mandate to improve the quality of justice in State courts. This year, however, in order to assure that the Institute's limited funding is spent only on projects that address the most important issues facing State courts across the nation, the Guideline proposes to restrict SJI's grants to only projects that fall within one of the five following Special Interest categories: Access to the Courts, Application of Technology in the Courts, Children and Families in Court, Judicial Branch Education, and the Relationship Between State and Federal Courts. Applications falling outside these categories would not be reviewed. The Guideline would also eliminate the ''Single Jurisdiction'' grant category, under which grants were awarded to support critically needed local projects for which no other funding was available.

(3) *Required grantee match.* The Institute's enabling legislation requires a 50% match from all units of State or local government that receive SJI grants. 42 U.S.C. 10705(d). This year's Guideline proposes to require match from all grantees. The amount and nature of required match would depend on the type of organization receiving the grant and the duration of the Institute's grant support. The proposed match requirements (found in section VIII.A.8.) are summarized below.

State and local units of government. The Guideline would continue to require these grantees to provide matching support equal to 50% of a new SJI-funded project. For example, if a State court system receives a $100,000 grant from the Institute, it would be required to provide a $50,000 match. Under the Proposed Guideline, a State or local unit of government would have to provide at least 20% of the required match for a new grant ($10,000 in the example) in the form of cash rather than in-kind support (*e.g.*, the value of staff time contributed to the project).

All other grantees. The Guideline would require all other grantees to contribute a match of 25% to a new SJI-funded project. For example, if a non-profit organization receives a $100,000 grant from SJI, it would be required to provide a $25,000 match. Under the Proposed Guideline, a non-profit would have to provide at least 10% of the required match for a new grant ($2,500 in the example) in the form of cash.

The amount and nature of unrequired match contributed by applicants would continue to be a factor the Board of Directors considers in making grant decisions. Scholarship recipients would not be required to provide match.

Continuation grants. As proposed under section VIII.A.8. of the Guideline, all grantees would be required to assume a greater share of project support over time. State and local units of government would be required to provide match equaling at least 50% of the amount provided by SJI in the first year of the project, 60% in the second year, 75% in the third year, 90% in the fourth year, and 100% in the fifth year. For example, if SJI awards a State court $100,000 for the first year of a grant, the court would be required to provide $50,000 in match. If the second-year grant is also $100,000, the court would be required to provide $60,000 in match. A court that wished to limit its second-year contribution to $50,000 could ask SJI for a reduced amount, *i.e.*, $83,333, in order to meet the 60% requirement.

All other grantees would be required to provide match equaling at least 25% of the amount provided by SJI in the first year of the project, 30% in the second year, 37.5% in the third year, 45% in the fourth year, and 50% in the fifth year. For example, if SJI awards a non-profit organization $100,000 for the first year of a grant, the organization would be required to provide $25,000 in match. If the second-year grant is also $100,000, the organization would be required to provide $30,000 in match. An organization that wished to limit its second-year contribution to $25,000 could ask SJI for a reduced amount, *i.e.*, $83,333, in order to meet the 30% requirement.

(4) *Indirect cost limits.* Prior Grant Guidelines have permitted grantees to recover all indirect costs approved by SJI or another Federal agency. The Proposed Guideline limits recoverable indirect costs to no more than 75% of a grantee's direct personnel costs (salaries plus fringe benefits). Grantees may apply unrecoverable indirect costs to meet their required matching contributions, including the required level of cash match. See section IX.I.4.

(4) *Continuation grant limits.* Absent extraordinary circumstances, no SJI grant awarded in FY 2003 would

continue for more than five years. See section V.D.1. The Guideline would also eliminate the ''Ongoing Support'' grant category, under which the Institute approved multi-year funding for important projects of national scope.

Types of Grants Available and Funding Schedules

SJI proposes to offer five types of grants in FY 2003: Project Grants, Technical Assistance (TA) Grants, Judicial Branch Education Technical Assistance (JBETA) grants, Continuation Grants, and Scholarships.

Project Grants. Project Grants are awarded to support innovative education, research, demonstration, and technical assistance projects that can improve the administration of justice in State courts nationwide. As provided in section V.C. of the Guideline, Project Grants may ordinarily not exceed $200,000 a year; however, grants in excess of $150,000 are likely to be rare, and awarded only to support projects likely to have a significant national impact.

The Board of Directors also contemplates allocating up to $800,000 to support the Solutions Project, a process that would draw on State and local court initiatives to identify and exchange promising solutions to the most critical problems facing the courts, and define a national agenda to improve the quality of justice in State courts nationwide.

The Board contemplates that the process would entail five steps: (1) Information collection about the specific needs of State courts, the efforts they have made to address them, and other possible responses to those needs; (2) information analysis; (3) a national event to identify the most promising solutions to the State courts' most critical problems; (4) development of a comprehensive catalogue of promising solutions; and (5) a dissemination phase that would involve the distribution of a final product clearly stating both the problems facing State courts as well as real and promising solutions to State court leaders, Congress, and other interested parties. Interested applicants are encouraged to include creative uses of technology to maximize participation in the project and distribution of the final product. See sections II.C. and VI.C.

SJI also plans to award ''think piece'' Project Grants to support the development of essays of publishable quality that explore emerging issues that could result in significant changes in court processes or judicial administration. ''Think pieces'' are limited to no more than $10,000. See section II.B.

As explained above, all project grant applications, including ''think piece'' proposals, must address a topic included in the five Special Interest categories listed in the Guideline.

The deadline for submitting a Project Grant application is February 7, 2003. The Board of Directors will meet in early May 2003 to approve grant awards. See section VI.A. for project grant application procedures.

Technical Assistance Grants. Section II.D. reserves up to $300,000 for Technical Assistance Grants. Under this program, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems.

Letters of application for a Technical Assistance Grant may be submitted at any time. Applicants submitting letters by January 10, 2003 will be notified by March 28, 2003; those submitting letters between January 11 and February 28, 2003 will be notified by May 30, 2003; those submitting letters between March 1 and June 6, 2003 will be notified by August 29, 2003; and those submitting letters between June 7 and September 26, 2003 will be notified of the Board's decision by December 12, 2003. See section VI.E. for Technical Assistance Grant application procedures.

Judicial Branch Education Technical Assistance Grants. The Guideline would implement an expansion of the Institute's former Curriculum Adaptation grant program that was proposed for comment last year. Section II.B.4.b. would allocate up to $300,000 for grants under the expanded program, which would be renamed the Judicial Branch Education Technical Assistance (JBE TA) grant program. Grants of up to $20,000 would be available to: (1) Enable a State or local court to adapt and deliver an education program that was previously developed and evaluated under an SJI project grant (*i.e.*, curriculum adaptation); and/or (2) support expert consultation in planning, developing, and administering State judicial branch education programs.

The services available through the expanded program could include consultant assistance in developing systematic or innovative judicial branch education programming, or development of improved methods for evaluating judicial branch education programs. Letters requesting JBE TA Grants may be submitted at any time. The grant cycles for JBE TA Grants are the same as the grant cycles for TA Grants:

Applicants submitting letters by January 10, 2003 will be notified by March 28, 2003; those submitting letters between January 11 and February 28, 2003 will be notified by May 30, 2003; those submitting letters between March 1 and June 6, 2003 will be notified by August 29, 2003; and those submitting letters between June 7 and September 26, 2003 will be notified of the Board's decision by December 12, 2003. See section VI.F. for JBE TA Grant application procedures.

Scholarships. The Guideline allocates up to $200,000 of FY 2003 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs.

Scholarships for eligible applicants are approved largely on a ''first come, first served'' basis, although the Institute may approve or disapprove scholarship requests in order to achieve appropriate balances on the basis of geography, program provider, and type of court or applicant (*e.g.*, trial judge, appellate judge, trial court administrator). Scholarships will be approved only for programs that either (1) address topics included in the Guideline's Special Interest categories (section II.A.); (2) enhance the skills of judges and court managers; or (3) are part of a graduate degree program for judges or court personnel.

Applicants interested in obtaining a scholarship for a program beginning between April 1 and June 30, 2003 must submit their applications and documents between January 3 and March 3, 2003. For programs beginning between July 1 and September 30, 2003, the applications and documents must be submitted between April 1 and June 2, 2003. For programs beginning between October 1 and December 31, 2003, the applications and documents must be submitted between July 7 and August 29, 2003. For programs beginning between January 1 and March 31, 2004, the applications and documents must be submitted between October 1 and December 1, 2003. See section VI.G. for Scholarship application procedures.

Continuation Grants. Continuation Grants (see sections III.D, V.B.2., and VI.D.) are intended to enhance the specific program or service begun during the initial project grant period. The Guideline establishes a firm limit for Continuation Grants of 20% of the total amount projected to be available for all Project Grants in FY 2003, *i.e.*, $400,000. Grantees should accordingly be aware that the award of a grant to support a project does not constitute a commitment to provide continuation funding. Under the Proposed Guideline,

no grant awarded in FY 2003 would be continued for more than five years.

An applicant for a Continuation Grant must submit a letter notifying the Institute of its intent to seek such funding no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its Continuation Grant application.

Recommendations to Grant Writers

Recommendations to Grant Writers may be found in Appendix A.

The following Grant Guideline is proposed by the State Justice Institute for FY 2003:

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I. The Mission of the State Justice Institute

The Institute was established by Pub. L. 98–620 to improve the administration of justice in the State courts of the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

- Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;
- Foster coordination and cooperation with the Federal judiciary;
- Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and
- Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an 11-member Board of Directors appointed by the President, with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

As set forth in Section I., the Institute is authorized to fund projects addressing a broad range of program areas. However, during FY 2003, the Institute will consider applications for funding support that address only the topics included in the following five program categories designated by the Board as being of special interest. Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

A. Special Interest Program Categories

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. The Institute is especially interested in funding projects that:

- Formulate new procedures and techniques, or creatively enhance existing procedures and techniques;
- Address aspects of the State judicial systems that are in special need of serious attention;
- Have national significance by developing products, services, and techniques that may be used in other States; and
- Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a *Special Interest* project if it meets the four criteria set forth above and (1) it falls within the scope of the *Special Interest* program categories designated below; or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

The Board has designated the areas set forth below as *Special Interest* program categories. The order of listing does not imply any ordering of priorities among the categories. For a complete list of projects supported in previous years in each of these categories, please visit the Institute's Internet homepage at *http://www.statejustice.org/* and click on *Grants by Category.*

1. Access to the Courts

This category includes demonstration, evaluation, research, and education projects designed to improve the responsiveness of courts to public concerns regarding the fairness, accessibility, timeliness, and comprehensibility of the court process.

The Institute is particularly interested in supporting innovative projects that:

- Test and evaluate new approaches to enhance public access to the courts, including demonstrations of innovative collaborative efforts between courts and community institutions (*e.g.*, bar associations, legal service agencies, schools, and public libraries) to enhance access to the courts by people without lawyers (in this regard, however, Institute funds may not be used to

directly or indirectly support legal representation of individuals in specific cases); and

• Develop and test a range of strategies, methodologies, guidelines, and outcome measures to evaluate the effectiveness of programs established to assist people without lawyers.

2. Application of Technology in the Courts

This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels. The Institute seeks to support local experiments with promising but untested applications of technology in the courts that include an evaluation of the impact of the technology in terms of costs, benefits, and staff workload, and a training component to assure that staff is appropriately educated about the purpose and use of the new technology. In this context, ''untested'' includes novel applications of technology developed for the private sector that have not previously been applied in the courts.

The Institute is particularly interested in supporting efforts to test and evaluate technologies that, if successfully implemented, would significantly re-engineer the way that courts currently do business, including projects that would:

• Demonstrate and evaluate the delivery of technology to rural courts through an Internet-based ''application service provider'' approach;

• Evaluate approaches for electronically filing pleadings, briefs, and other documents; approaches to integrate electronic filing and electronic document management; and the impact of electronic court record systems on case management and court procedures;

• Test and evaluate the use of Geographic Information System (GIS) software as a means of examining and improving courts' outreach to particular segments of the communities they serve;

• Demonstrate and evaluate innovative applications of voice recognition technologies in the adjudication process;

• Demonstrate and evaluate the use of expert system technology to assist judicial decision-making; and

• Evaluate innovative applications of technology designed to ensure the safety of all who use and work in the courts.

3. Children and Families in Court

This category includes education, demonstration, evaluation, technical assistance, and research projects to identify and inform judges of innovative, effective approaches for handling cases involving children and families. The Institute is particularly interested in projects that would:

• Demonstrate and evaluate innovative approaches to manage and coordinate cases and proceedings involving multiple members of the same family;

• Demonstrate and evaluate the effectiveness of a ''one social worker/one family'' or judge-social worker team approach to handling child abuse and neglect cases;

• Develop and test innovative protocols, procedures, educational programs, and other measures to address the service needs of children exposed to family violence and the methods for mitigating those effects when issuing protection, custody, visitation, or other orders;

• Educate judges about how to interpret and evaluate evidence presented by psychologists, psychiatrists, and other professionals appearing in child custody and visitation cases involving domestic violence between the parents;

• Develop and test the implementation of a differentiated case management system for handling child custody disputes;

• Develop and evaluate educational programs addressing a collaborative community approach to reducing and preventing domestic violence for a multidisciplinary audience that includes judges, prosecutors, defense attorneys, victim advocates, doctors, and social services providers;

• Evaluate the impact of court policies and procedures and collaborative community approaches designed to ensure that juvenile sex offenders have access to an appropriate array of services;

• Create and test educational programs, guidelines, and monitoring systems to assure that the juvenile justice system meets the needs of girls and children of color; and

• Develop and test educational programs to assure that everyone coming into contact with courts serving children and families is treated with dignity, respect, and courtesy.

Institute funds may not be used to provide operational support to programs offering direct services or compensation to victims of crimes. (Applicants interested in obtaining such operational support should contact the Office for Victims of Crime [OVC], Office of Justice Programs, U.S. Department of Justice, or the agency in their State that awards OVC funds to State and local victim assistance and compensation programs.)

4. Judicial Branch Education

The Institute is interested in supporting an array of projects that will continue to strengthen and broaden the availability of court education programs at the State, regional, and national levels. This category is divided into three subsections: (a) Innovative Educational Programs; (b) Judicial Branch Education Technical Assistance Projects; and (c) Scholarships.

a. *Innovative Educational Programs.* This category includes support for the development and pilot-testing of innovative, high-quality educational programs for trial and appellate judges or court personnel that address key issues of concern to the nation's courts, or help local courts or State court systems develop or enhance their capacity to deliver quality continuing education.

Programs may be designed for presentation at the local, State, regional, or national level. Ordinarily, court education programs should be based on an assessment of the needs of the target audience; include clearly stated learning objectives that delineate the new knowledge or skills participants will acquire (as opposed to a description of what will be taught); incorporate adult education principles and multiple teaching/learning methods; and result in the development of a curriculum as defined in section III.E.

The Institute is particularly interested in supporting the development of educational programs that:

• Educate State court judges, law clerks, and staff counsel about capital case law, DNA evidence, and other legal and scientific issues related to the trial and appeal of capital cases;

• Educate State court judges and court personnel about special problems related to the adjudication of capital cases, including jury voir dire, jury sequestration, sentencing hearings, court security, and media management;

• Educate judges and court officials about the threat of terrorism and steps they can take to effectively protect courthouses against acts of terrorism;

• Assist judges, court managers, community leaders, and other State or local government agency administrators in collaboratively developing and evaluating courthouse security policies and programs, and disaster recovery plans;

• Develop and test curricula and materials designed to familiarize judges and court managers with the need for and key elements of effective assistance programs for people without lawyers,

and the resources required to sustain them; and

• Examine the long-term cognitive effects of substance abuse (including alcohol) and their implications for compliance with court orders, probation conditions, release, visitation orders, etc.

b. *Judicial Branch Education Technical Assistance Projects.* The Board is reserving up to $300,000 to support technical assistance and on-site consultation in planning, developing, and administering comprehensive and specialized State judicial branch education programs, as well as the adaptation of model curricula previously developed with SJI funds.

The goals of the Judicial Branch Education Technical Assistance Program (JBE TA) are to:

(1) Provide State and local courts with expert assistance in developing systematic or innovative judicial branch education programming as well as improved methods for assessing the need for and evaluating the impact of court education programs; and

(2) Enable courts to modify a model curriculum, course module, or conference program developed with SJI funds to meet a particular State's or local jurisdiction's educational needs; train instructors to present portions or all of the curriculum; and pilot-test it to determine its appropriateness, quality, and effectiveness. An illustrative but non-inclusive list of the curricula that may be appropriate for adaptation is contained in Appendix E.

Only State or local courts may apply for JBE TA funding. Application procedures may be found in Section VI.F.

c. *Scholarships for Judges and Court Managers.* The Institute is reserving up to $200,000 to support a scholarship program for State judges and court managers. The purposes of the scholarship program are to:

• Enhance the skills, knowledge, and abilities of judges and court managers;

• Enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and

• Provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an out-of-State educational program within the United States. Application procedures may be found in Section VI.G.

5. The Relationship Between State and Federal Courts

This category includes education, research, demonstration, and evaluation projects designed to facilitate appropriate and effective communication, cooperation, and coordination between State and Federal courts.

The Institute is particularly interested in innovative projects that:

• Evaluate State and Federal courts' experiences with capital cases to identify reasons for reversals of trial court convictions, barriers to timely disposition, and steps that can be taken to minimize reversals and undue delay;

• Educate judges about capital case law, DNA evidence, and judicial administration issues arising from death penalty cases, *e.g.*, court security, jury sequestration, and media management;

• Coordinate and process mass tort cases fairly and efficiently at the trial and appellate levels; and

• Provide technical assistance nationwide to help court officials develop effective emergency responses to acts of terrorism.

B. ''Think Pieces''

This category addresses the development of essays of publishable quality directed to the court community. The essays should explore emerging issues that could result in significant changes in court process or judicial administration and their implications for the future for judges, court managers, policy-makers, and the public. Grants supporting such projects are limited to no more than $10,000. Applicants should follow the procedures explained in section VI.B. of this Guideline.

Think piece topics are limited to the five Special Interest categories listed in section II.A. of this Guideline.

C. The Solutions Project

1. Overview

The Board of Directors is reserving up to $800,000 to support the Solutions Project, a process intended to infuse the State courts with the ability to develop innovative and creative ways to address the problems they face and provide a mechanism to transfer these ideas throughout the nation. In addition to providing State courts with an array of promising solutions to their most pressing problems, the Solutions Project will generate consensus on projects, ideas, and programs that merit additional Federal funding support because of their broad appeal and promise.

The process will entail five steps:

a. Information collection about the specific needs of the State courts, the efforts the courts have made to date to address those needs, and other possible solutions;

b. Information analysis;

c. A national event, *e.g.*, an in-person or virtual conference, to identify the most promising solutions to the State courts' most critical problems;

d. Development of a comprehensive catalogue of promising solutions; and;

e. Distribution of a final product clearly stating both the problems facing State courts, as well as real and promising solutions, to State court leaders and other interested parties.

2. State Court Information Collection Grants

Grants of up to $20,000 are available to State court systems interested in undertaking a town hall meeting, focus groups, survey(s), or other initiatives designed to (a) collect information about the problems facing their courts, (b) assess the effectiveness of the solutions the court system has developed to respond to those problems, or (c) solicit the public's recommendations about other potential solutions. Only State supreme courts or State court administrative offices may apply for these grants. See section VI.C.1. for the application procedures.

A grant or grants will be awarded to support the remaining work outlined in the five steps listed above. Applicants are encouraged to include creative uses of technology to maximize participation in the project and distribution of the final product. Applications should conform to the requirements set forth in section VI.A. for Project Grants.

D. Technical Assistance Grants

The Board will set aside up to $300,000 to support the provision of technical assistance to State and local courts. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and implement any needed changes. The Institute will reserve sufficient funds each quarter to assure the availability of Technical Assistance Grants throughout the year.

Technical Assistance Grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants; travel by a team of officials from one court to examine a practice, program, or facility in another jurisdiction that the applicant court is interested in replicating; or both. Normally, the technical assistance must be completed

within 12 months after the start date of the grant.

Only a State or local court may apply for a Technical Assistance grant. The application procedures may be found in section VI.E.

III. Definitions

The following definitions apply for the purposes of this Guideline:

A. Acknowledgment of SJI Support

The prominent display of the SJI logo on the front cover of a written product or in the opening frames of a videotape developed with Institute support, and inclusion of a brief statement on the inside front cover or title page of the document or the opening frames of the videotape identifying the grant number. See section VIII.A.11.a.(2) for the precise wording of the statement.

B. Application

A formal request for an Institute grant. A complete application consists of: Form A—Application; Form B—Certificate of State Approval (for applications from local trial or appellate courts or agencies); Form C—Project Budget/Tabular Format or Form C1—Project Budget/Spreadsheet Format; Form D—Assurances; Disclosure of Lobbying Activities; a detailed 25-page description of the need for the project and all related tasks, including the time frame for completion of each task, and staffing requirements; and a detailed budget narrative that provides the basis for all costs. See section VI. for a complete description of application submission requirements. See Appendix F for the Project Grant application forms.

C. Close-Out

The process by which the Institute determines that all applicable administrative and financial actions and all required grant work have been completed by both the grantee and the Institute.

D. Continuation Grant

A grant lasting no longer than 15 months to permit completion of activities initiated under an existing Institute grant or enhancement of the products or services produced during the prior grant period. See section VI.D. for a complete description of continuation application requirements.

E. Curriculum

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: the learning objectives; the presentation methods; a sample agenda or schedule; an outline of presentations and relevant instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes, and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program, including possible faculty or the preferred qualifications or experience of those selected as faculty.

F. Designated Agency or Council

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for SJI grant funds and to receive, administer, and be accountable for those funds.

G. Disclaimer

A brief statement that must be included at the beginning of a document or in the opening frames of a videotape produced with Institute support that specifies that the points of view expressed in the document or tape do not necessarily represent the official position or policies of the Institute. See section VIII.A.11.a.(2) for the precise wording of this statement.

H. Grant Adjustment

A change in the design or scope of a project from that described in theapproved application, acknowledged in writing by the Institute. See section X.A for a list of the types of changes requiring a formal grant adjustment. Ordinarily, changes requiring a Grant Adjustment (including budget reallocations between direct cost categories that individually or cumulatively exceed five percent of the approved original budget) should be requested at least 30 days in advance of the implementation of the requested change.

I. Grantee

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, *grantee* refers to the State Supreme Court or its designee.

J. Human Subjects

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions, and/or experiences through an interview, questionnaire, or other data collection technique.

K. Judicial Branch Education Technical Assistance (JBE TA) Grant

A grant of up to $20,000 awarded to a State or local court to support expert assistance in designing or delivering judicial branch education programming, and/or the adaptation of an education program based on an SJI-supported curriculum that was previously developed and evaluated under an SJI Project Grant. See also section VI.F. for a complete description of JBE TA Grant application requirements.

L. Match

The portion of project costs not borne by the Institute. Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, *etc.,* made to the project by the grantee or others (*e.g.*, advisory board members) working directly on the project.

Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, or the time of participants attending an education program. Amounts contributed as cash or in-kind match may not be recovered through the sale of grant products during or following the grant period.

See section VIII.A.8. for the Institute's matching requirements.

M. Products

Tangible materials resulting from funded projects including, but not limited to: Curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; computer software; and CD–ROM disks.

N. Project Grant

An initial grant lasting up to 15 months to support an innovative education, research, demonstration, or technical assistance project that can improve the administration of justice in State courts nationwide. Ordinarily, a project grant may not exceed $200,000 a year; however, a grant in excess of $150,000 is likely to be rare and awarded only to support highly promising projects that will have a significant national impact. See section VI.A. for a complete description of Project Grant application requirements.

O. Project-Related Income

Interest, royalties, registration and tuition fees, proceeds from the sale of products, and other earnings generated as a result of an Institute grant. Project-related income may not be counted as match. For a more complete description of different types of project-related income, see section IX.G.

P. Scholarship

A grant of up to $1,500 awarded to a judge or court employee to cover the cost of tuition for and transportation to and from an out-of-State educational program within the United States. See section VI.G. for a complete description of scholarship application requirements.

Q. Special Condition

A requirement attached to a grant award that is unique to a particular project.

R. State Supreme Court

The highest appellate court in a State, or, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, *State Supreme Court* means that court which also has administrative responsibility for the State's judicial system. *State Supreme Court* also includes the office of the court or council, if any, it designates to perform the functions described in this Guideline.

S. Subgrantee

A State or local court which receives Institute funds through the State Supreme Court.

T. Technical Assistance Grant

A grant, lasting up to 12 months, of up to $30,000 to a State or local court to support outside expert assistance in diagnosing a problem and developing and implementing a response to that problem. See section VI.E. for a complete description of technical assistance grant application requirements.

IV. Eligibility for Award

The Institute is authorized by Congress to award grants, cooperative agreements, and contracts to the following entities and types of organizations:

A. *State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)).* Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section IX.C.2. of this Guideline.

B. *National nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705(b)(1)(B)).*

C. *National nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)).* An applicant is considered a national education and training applicant under section 10705(b)(1)(C) if:

1. The principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and

2. The applicant demonstrates a record of substantial experience in the field of judicial education and training.

D. *Other eligible grant recipients (42 U.S.C. 10705(b)(2)(A)–(D)).*

1. Provided that the objectives of the project can be served better, the Institute is also authorized to make awards to:

a. Nonprofit organizations with expertise in judicial administration;

b. Institutions of higher education;

c. Individuals, partnerships, firms, corporations (for-profit organizations must waive their fees); and

d. Private agencies with expertise in judicial administration.

2. The Institute may also make awards to State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements (42 U.S.C. 10705(b)(3)).

E. *Inter-agency Agreements.* The Institute may enter into inter-agency agreements with Federal agencies (42 U.S.C. 10705(b)(4)) and private funders to support projects consistent with the purposes of the State Justice Institute Act.

V. Types of Projects and Grants; Size of Awards

A. Types of Projects

The Institute supports the following general types of projects:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

B. Types of Grants

The Institute supports the following types of grants:

1. Project Grants

See sections II.A. and B., and VI.A. The Institute places no annual limitations on the overall number of project grant awards or the number of awards in each Special Interest category.

As part of the Solutions Project, the Institute will make grants available to State court systems to support the collection of information about the most critical problems facing the State courts, and promising solutions to those problems. See sections II.C. and VI.C.

2. Continuation Grants

See sections III.D. and VI.D. In FY 2003, the Institute is allocating no more than 20% of available grant funds for continuation grants.

3. Technical Assistance Grants

See sections II.D. and VI.E. In FY 2003, the Institute is reserving up to $300,000 for these grants.

4. Judicial Branch Education Technical Assistance Grants

See sections II.A.4.b., III.K., and VI.F. In FY 2003, the Institute is reserving up to $300,000 for Judicial Branch Education Technical Assistance Grants, which includes adaptations of curricula previously developed with SJI funding.

5. Scholarships

See sections II.A.4.c., III.P., and VI.G. In FY 2003, the Institute is reserving up to $200,000 for scholarships for judges and court employees. The Institute will reserve sufficient funds each quarter to assure the availability of scholarships throughout the year.

C. Maximum Size of Awards

1. Except as specified below, applicants for new Project Grants and continuation grants may request funding in amounts up to $200,000 for 15 months, although new and continuation awards in excess of $150,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applicants for Solutions Project Grants may request funding in amounts up to $20,000.

3. Applicants for Technical Assistance Grants may request funding in amounts up to $30,000.

4. Applicants for Judicial Branch Education Technical Assistance Grants may request funding in amounts up to $20,000.

5. Applicants for scholarships may request funding in amounts up to $1,500.

D. Length of Grant Periods

1. Grant periods for all new and continuation projects ordinarily may not exceed 15 months. Absent extraordinary circumstances, no grant awarded in FY

2003 will continue for more than five years.

2. Grant periods for Technical Assistance Grants and Judicial Branch Education Technical Assistance Grants ordinarily may not exceed 12 months.

VI. Applications

A. Project Grants

An application for a Project Grant must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances (see below). See Appendix F for the Project Grant application forms. For a summary of the application process, visit the Institute's Web site (*http://www.statejustice.org*) and click on On-Line Tutorials, then Project Grant.

1. Forms

a. Application Form (Form A). The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete; that submission of the application has been authorized by the applicant; and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

b. Certificate of State Approval (Form B). An application from a State or local court must include a copy of Form B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

c. Budget Forms (Form C or C1). Applicants may submit the proposed project budget either in the tabular format of Form C or in the spreadsheet format of Form C1. Applicants requesting $100,000 or more are strongly encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested, as well as for the total length of the project.

In addition to Form C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category. (*See* section VI.A.4. below.)

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

d. Assurances (Form D). This form lists the statutory, regulatory, and policy requirements with which recipients of Institute funds must comply.

e. Disclosure of Lobbying Activities. Applicants other than units of State or local government are required to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. (*See* section VIII.A.7.)

2. Project Abstract

The abstract should highlight the purposes, goals, methods, and anticipated benefits of the proposed project. It should not exceed 1 single-spaced page on 8½ by 11 inch paper.

3. Program Narrative

The program narrative for an application may not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

a. Project Objectives. The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (*e.g.,* to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (*e.g.,* provide training for 32 judges and court managers, or review data from 300 cases).

b. Program Areas to be Covered. The applicant should note the Special Interest category or categories that are addressed by the proposed project (see section II.A.).

c. Need for the Project. If the project is to be conducted in any specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing programs, procedures, services, or other resources cannot adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

d. Tasks, Methods and Evaluation. (1) *Tasks and Methods.* The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

(a) *For research and evaluation projects,* the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and protecting others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

(b) *For education and training projects,* the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty would be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who would attend them; the materials to

be provided and how they would be developed; and the cost to participants.

(c) *For demonstration projects,* the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they would be identified and their cooperation obtained; and how the program or procedures would be implemented and monitored.

(d) *For technical assistance projects,* the applicant should explain the types of assistance that would be provided; the particular issues and problems for which assistance would be provided; how requests would be obtained and the type of assistance determined; how suitable providers would be selected and briefed; how reports would be reviewed; and the cost to recipients.

(2) *Evaluation.* Every project must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide ongoing or periodic feedback on the effectiveness or utility of the project in order to promote its continuing improvement. The plan should present the qualifications of the evaluator(s); describe the criteria that would be used to evaluate the project's effectiveness in meeting its objectives; explain how the evaluation would be conducted, including the specific data collection and analysis techniques to be used; discuss why this approach would be appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

(a) *Research.* An evaluation approach suited to many research projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

(b) *Education and Training.* The most valuable approaches to evaluating educational or training programs reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes, or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment of what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of sessions, the value or usefulness of the material presented, and other relevant factors. Another appropriate approach would be to use an independent observer who might request both verbal and written responses from participants in the program. When an education project involves the development of curricular materials, an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

(c) *Demonstration.* The evaluation plan for a demonstration project should encompass an assessment of program effectiveness (*e.g.*, how well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (*e.g.*, was the program implemented as designed, and/or did it provide the services intended to the targeted population?); the impact of the program (*e.g.*, what effect did the program have on the court, and/or what benefits resulted from the program?); and the replicability of the program or components of the program.

(d) *Technical Assistance.* For technical assistance projects, applicants should explain how the quality, timeliness, and impact of the assistance provided would be determined, and develop a mechanism for feedback from both the users and providers of the technical assistance.

Evaluation plans involving human subjects should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and protecting others who are not the subjects of the evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subject protection issues ordinarily are not applicable to participants evaluating an education program.

e. Project Management. The applicant should present a detailed management plan, including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that would ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination, would occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (*i.e.*, no later than January 30, April 30, July 30, and October 30).

Applicants should be aware that the Institute is unlikely to approve more than one limited extension of the grant period. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

f. Products. The program narrative in the application should contain a description of the products to be developed (*e.g.*, training curricula and materials, videotapes, articles, manuals, or handbooks), including when they would be submitted to the Institute. The budget should include the cost of producing and disseminating the product to each in-State SJI library (See Appendix C), State chief justice, State court administrator, and other appropriate judges or court personnel.

(1) *Dissemination Plan.* The application must explain how and to whom the products would be disseminated; describe how they would benefit the State courts, including how they could be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant would be offered to the courts community and the public at large (*i.e.*, whether products would be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product) (see section VIII.A.11.b.). Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

A copy of each product must be sent to the library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix C.) Applicants proposing to develop web-based products should provide for sending a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or

electronic product (*i.e.*, a written report with a reference to the web site).

Fifteen (15) copies of all project products must be submitted to the Institute, along with an electronic version in .html format.

(2) *Types of Products and Press Releases.* The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that would be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they would make their data available for secondary analysis after the grant period. (See section VIII.A.14.a.).

The curricula and other products developed through education and training projects should be designed for use outside the classroom so that they may be used again by the original participants and others in the course of their duties.

In addition, recipients of project grants must prepare a press release describing the project and announcing the results, and distribute the release to a list of national and State judicial branch organizations. SJI will provide press release guidelines and a list of recipients to grantees at least 30 days before the end of the grant period.

(3) *Institute Review.* Applicants must submit a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in a videotape or CD–ROM format, applicants must provide for incremental Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute. (See section VIII.A.11.e.)

(4) *Acknowledgment, Disclaimer, and Logo.* Applicants must also include in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section VIII.A.11.a.(2) of the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video, unless the Institute approves another placement.

g. Applicant Status. An applicant that is not a State or local court and has not received a grant from the Institute within the past three years should state whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments, or a national non-profit organization for the education and training of State court judges and support personnel. *See* section IV. If the applicant is a nonjudicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

h. Staff Capability. The applicant should include a summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that would be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for managing and reporting on the financial aspects of the proposed project.

i. Organizational Capacity. Applicants that have not received a grant from the Institute within the past three years should include a statement describing their capacity to administer grant funds, including the financial systems used to monitor project expenditures (and income, if any), and a summary of their past experience in administering grants, as well as any resources or capabilities that they have that would particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past three years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax-exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, ''current'' means no earlier than two years prior to the present calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire, which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

j. Statement of Lobbying Activities. Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form, which documents whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts. See Appendix F.

k. Letters of Cooperation or Support. If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under separate cover. To ensure sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received by March 15, 2003.

4. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to purchase alcoholic beverages.

a. Justification of Personnel Compensation. The applicant should set forth the percentages of time to be devoted by the individuals who would staff the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rates of those individuals. The applicant should explain any deviations from current rates or established written organizational policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42

U.S.C. 10706(d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds would support only the portion of the employee's time that would be dedicated to new or additional duties related to the project.

b. Fringe Benefit Computation. The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented, as well as a description of the elements included in the determination of the percentage rate.

c. Consultant/Contractual Services and Honoraria. The applicant should describe the tasks each consultant would perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (*e.g.*, the number of days multiplied by the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section IX.I.2.c. Prior written Institute approval is required for any consultant rate in excess of $300 per day; Institute funds may not be used to pay a consultant more than $900 per day. Honorarium payments must be justified in the same manner as consultant payments.

d. Travel. Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

e. Equipment. Grant funds may be used to purchase only the equipment necessary to demonstrate a new technological application in a court or that is otherwise essential to accomplishing the objectives of the project. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases of automated data processing equipment must comply with section IX.I.2.b.

f. Supplies. The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

g. Construction. Construction expenses are prohibited except for the limited purposes set forth in section VIII.A.16.b. Any allowable construction or renovation expense should be described in detail in the budget narrative.

h. Telephone. Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used to calculate the monthly and long distance estimates.

i. Postage. Anticipated postage costs for project-related mailings, including distribution of the final product(s), should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the budget narrative.

j. Printing/Photocopying. Anticipated costs for printing or photocopying project documents, reports, and publications should be included in the budget narrative, along with the bases used to calculate these estimates.

k. Indirect Costs. Recoverable indirect costs are limited to no more than 75% of a grantee's direct personnel costs (salaries plus fringe benefits). Grantees may apply unrecoverable indirect costs to meet their required matching contributions, including the required level of cash match. See sections III.L. and IX.I.4.

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (*e.g.*, a percentage of the time of senior managers to supervise project activities), the applicant should specify that these costs are not included within its approved indirect cost rate. These rates must be established in accordance with section IX.I.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

l. Match. Courts or other units of State or local government (not including publicly supported institutions of higher education) must provide a match from private or public sources of not less than 50% of the total amount of the Institute's award. 42 U.S.C. 10705(d). At least 20% of the required match for a new grant to a court or other unit of State or local government must be cash. All other grantees must contribute a match of 25% to a new grant. At least 10% of the required match must be cash.

The applicant should describe the source of the matching contribution and the nature of the match provided. Any additional cash and in-kind contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services, or materials actually contributed would be documented for audit purposes. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match.

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions would be made. (See sections III.L., VIII.A.8., and IX.E.1.)

5. Submission Requirements

a. Every applicant must submit an original and four copies of the application package consisting of Form A; Form B, if the application is from a State or local court, or a Disclosure of Lobbying Form, if the applicant is not a unit of State or local government; the Budget Forms (either Form C or C–1); the Application Abstract; the Program Narrative; the Budget Narrative; and any necessary appendices.

All applications must be sent by first class or overnight mail or by courier no later than February 7, 2003. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on the application package envelope and send it to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

Receipt of each application will be acknowledged in writing. Extensions of the deadline for submission of applications will not be granted without good cause.

b. Applicants submitting more than one application may include material that would be identical in each application in a cover letter. This material will be incorporated by reference into each application and counted against the 25-page limit for the

program narrative. A copy of the cover letter should be attached to each copy of each application.

B. ''Think Piece'' Applications

1. Purpose and Scope

''Think pieces'' are essays of publishable quality directed to the court community. They are intended to explore emerging issues that could result in significant changes in court process or judicial administration and their implications for the future for judges, court managers, policy-makers, and the public.

2. Forms

An application for a ''think piece'' must include the same forms required for a project grant. See A.1. above in this section.

3. Program Narrative

The program narrative should be no longer than necessary, but must not exceed 8 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch and type size must be at least 12 point and 12 cpi. The pages should be numbered. The narrative should:

a. Identify the specific Special Interest category into which the ''think piece'' would fall;

b. Describe the subject it would address;

c. Explain how the essay would advance the current state of the art or knowledge about the subject;

d. Discuss the benefits that would accrue to the State courts generally as a result of the essay's publication; and

e. Outline plans for the publication of the ''think piece,'' *e.g.*, the intended audience, and the types or titles of periodicals or journals to which it would be submitted.

4. Budget and Budget Narrative

The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in A.4. above in this section.

5. Submission Requirements

The submission requirements set forth in section VI.A.5 apply to all ''think piece'' applications.

C. Solutions Project Grants

1. State Court Information Collection Grants

Solutions Project Grants of up to $20,000 are available to State court systems to support the costs of town hall meetings, focus groups, surveys, or other information-gathering initiatives designed to (a) identify the critical problems facing the State's courts, (b) assess the effectiveness of the solutions the court system has developed to respond to those problems, or (c) solicit the public's recommendations about other potential solutions.

a. Application Procedures. In lieu of applications, applicants may submit a two-page letter describing how they propose to gather the information on critical problems and promising solutions. The letter must be signed by either the chief justice of the State supreme court or the State court administrator.

b. Application Format. Although there is no prescribed form for the letter, it should describe briefly the nature of the problem(s) sought to be addressed, the mechanism(s) to be used to collect the information sought, who would oversee the collection process, the anticipated time frame required to complete the process, and the manner and form in which the information would be submitted to the Institute.

c. Budget and Matching State Contribution. A completed Form C (Budget) and budget narrative must be included with the letter requesting the Solutions Project Grant. The budget narrative should provide the basis for all costs. If the information-gathering process entails the involvement of a consultant, applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and no consultant will be paid more than $900 per day from Institute funds.

As with all Institute grants to State and local courts, applicants must provide matching support equal to 50% of the amount requested from the Institute; however, no cash match is required for Solutions Project Grants.

Recipients of Solutions Project Grants do not have to submit an audit but must maintain appropriate documentation to support all expenditures (see section VIII.A.3.).

d. Submission Requirements. Letters requesting Solutions Project Grants must be postmarked no later than October 25, 2002. Please mark SOLUTIONS PROJECT on the envelope and send it to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

2. National Solutions Project Grant(s)

A grant or grants will be awarded to support the analysis and dissemination of the information collected by the State court systems. The proposed project design should describe:

- The processes that would be used to analyze the information gathered by the participating State court systems;
- The type and size of national event (*e.g.*, an in-person or virtual conference) that would be held to identify the most promising solutions to the State courts' most critical problems;
- The methods that would be used to compile a comprehensive catalogue of promising solutions; and
- The format of the final product, which should clearly state both the problems facing State courts, as well as real and promising solutions, and how it would be distributed to State court leaders and other interested parties.

a. Application Procedures. Applications should conform to the requirements for Project Grants outlined in section VI.A.

b. Submission Requirements. The submission requirements set forth in section VI.A.5 apply to these applications.

D. Continuation Grant Applications

1. Purpose

Continuation grants are intended to support projects that carry out the same type of activities carried out under a previous grant. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support.

2. Limitations

The award of an initial grant to support a project does not constitute a commitment by the Institute to continue funding. For a project to be considered for continuation funding, the grantee must have completed all project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks. Absent extraordinary circumstances, no grant awarded in FY 2003 will continue for more than five years.

3. Letters of Intent

A grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for continued funding becomes apparent

but no less than 120 days before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 8½ by 11 inch paper and contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in the scope, focus, or audience of the project.

b. Within 30 days after receiving a letter of intent, Institute staff will review the proposed activities for the next project period and inform the grantee of specific issues to be addressed in the continuation application and the date by which the application must be submitted.

4. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in A.2. of this section, a program narrative, a budget narrative, a Certificate of State Approval—Form B (if the applicant is a State or local court), a Disclosure of Lobbying Activities form (from applicants other than units of State or local government), and any necessary appendices. See Appendix F for the application forms.

The program narrative should conform to the length and format requirements set forth in section VI.A.3. However, rather than the topics listed there, the program narrative of a continuation application should include:

a. Project Objectives. The applicant should clearly and concisely state what the continuation project is intended to accomplish.

b. Need for Continuation. The applicant should explain why continuation of the project is necessary to achieve the goals of the project, and how the continuation would benefit the participating courts or the courts community generally, by explaining, for example, how the original goals and objectives of the project would be unfulfilled if it were not continued; or how the value of the project would be enhanced by its continuation.

c. Report of Current Project Activities. The applicant should discuss the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why.

d. Evaluation Findings. The applicant should present the key findings, impact, or recommendations resulting from the evaluation of the project, if available, and how they would be addressed during the proposed continuation. If the findings are not yet available, the applicant should provide the date by which they would be submitted to the Institute. Ordinarily, the Board will not consider an application for continuation funding until the Institute has received the evaluator's report.

e. Tasks, Methods, Staff, and Grantee Capability. The applicant should fully describe any changes in the tasks to be performed, the methods to be used, the products of the project, and how and to whom those products would be disseminated, as well as any changes in the assigned staff or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

f. Task Schedule. The applicant should present a detailed task schedule and timeline for the next project period.

g. Other Sources of Support. The applicant should indicate why other sources of support would be inadequate, inappropriate, or unavailable.

5. Budget and Budget Narrative

a. Institute Funds. The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in VI.A.4. above. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. In addition, the applicant should estimate the amount of grant funds that would remain unobligated at the end of the current grant period.

b. Matching Contribution. i. *State and local units of government* must provide match equaling at least 50% of the amount provided by the Institute in the first year of the project, 60% in the second year, 75% in the third year, 90% in the fourth year, and 100% in the fifth year.

For example, if the Institute awards a State court $100,000 for the first year of a grant, the court would be required to provide $50,000 in match. If the second-year grant is also $100,000, the court would be required to provide $60,000 in match. A court that wishes to limit its second-year contribution to $50,000 may ask the Institute for a reduced amount, *i.e.*, $83,333, in order to meet the 60% requirement. A State or local unit of government would have to provide at least 20% of the required match for a new grant ($10,000 in the example) in the form of cash rather than in-kind support (*e.g.*, the value of staff time contributed to the project).

ii. *All other grantees* must provide match equaling at least 25% of the amount provided by the Institute in the first year of the project, 30% in the second year, 37.5% in the third year, 45% in the fourth year, and 50% in the fifth year. For example, if the Institute awards a non-profit organization $100,000 for the first year of a grant, the organization would be required to provide $25,000 in match. If the second year grant is also $100,000, the court would be required to provide $30,000 in match. An organization that wishes to limit its second-year contribution to $25,000 could ask the Institute for a reduced amount, *i.e.*, $83,333, in order to meet the 30% requirement. A non-profit organization must provide at least 10% of the required match for a new grant ($2,500 in the example) in the form of cash.

iii. For the purpose of calculating match requirements for continuation grants, an award in FY 2003 will constitute the first year of the project, regardless of whether the project was funded initially in a prior year.

6. References to Previously Submitted Material

A continuation application should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

7. Submission Requirements

The submission requirements set forth in section VI.A.5., other than the mailing deadline, apply to continuation applications.

E. Technical Assistance Grants

1. Purpose and Scope

Technical Assistance Grants are awarded to State and local courts to obtain the assistance of outside experts in diagnosing, developing, and implementing a response to a particular problem in a jurisdiction.

2. Application Procedures

For a summary of the application procedures for Technical Assistance Grants, visit the Institute's web site (*www.statejustice.org*) and click On-Line Tutorials, then Technical Assistance Grant.

In lieu of formal applications, applicants for Technical Assistance Grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project. Letters from an individual trial or appellate court must be signed by the presiding judge or manager of that court. Letters from the State court system must be signed by the Chief Justice or State Court Administrator.

3. Application Format

Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information:

a. Need for Funding. What is the critical need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

b. Project Description. What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task and the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

c. Likelihood of Implementation. What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

d. Support for the Project from the State Supreme Court or its Designated Agency or Council. Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix F) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

4. Budget and Matching State Contribution

A completed Form E, *Line-Item Budget Form* (see Appendix G), and budget narrative must be included with the letter requesting technical assistance. The estimated cost of the technical assistance services should be broken down into the categories listed on the budget form rather than aggregated under the Consultant/Contractual category.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (*e.g.*, the number of days per task times the requested daily consultant rate). Applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and that no consultant will be paid more than $900 per day from Institute funds. In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

As with other awards to State or local courts, match must be provided in an amount equal to at least 50% of the grant amount requested, and 20% of the match provided must be cash.

Recipients of Technical Assistance Grants do not have to submit an audit but must maintain appropriate documentation to support expenditures. (See section VIII.A.3.)

5. Submission Requirements

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters by January 10, 2003 will be notified of the Institute's decision by March 28, 2003; those submitting letters between January 11 and February 28, 2003 will be notified by May 30, 2003; those submitting letters between March 1 and June 6, 2003 will be notified by August 29, 2003; and those submitting letters between June 7 and September 26, 2003 will be notified by December 12, 2003.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than three weeks prior to the Board meeting at which the technical assistance requests will be considered (*i.e.*, by February 7, April 10, July 3, and October 16, 2003).

F. Judicial Branch Education Technical Assistance Grants

1. Purpose and Scope

Judicial Branch Education Technical Assistance (JBE TA) Grants are awarded to State and local courts to support: (1) Expert assistance in planning, developing, and administering State judicial branch education programs; and/or (2) replication or modification of a model training program originally developed with Institute funds. Ordinarily, the Institute will support the adaptation of a curriculum once (*i.e.*, with one grant) in a given State.

JBE TA Grants may support consultant assistance in developing systematic or innovative judicial branch educational programming. The assistance might include development of improved methods for assessing the need for, and evaluating the quality and impact of, court education programs and their administration by State or local courts; faculty development; and/or topical program presentations. Such assistance may be tailored to address the needs of a particular State or local court or specific categories of court employees throughout a State and, in certain cases, in a region, if sponsored by a court.

2. Application Procedures

For a summary of the application procedures for Judicial Branch Education Technical Assistance Grants, visit the Institute's web site (*www.statejustice.org*) and click on On-Line Tutorials, then Judicial Branch Education Technical Assistance Grant.

In lieu of formal applications, applicants should submit an original and three photocopies of a detailed letter.

3. Application Format

Although there is no prescribed format for the letter, or a minimum or maximum page limit, letters of application should include the following information:

a. For on-site consultant assistance:

(1) *Need for Funding.* What is the critical judicial branch educational need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

(2) *Project Description.* What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task and the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

(3) *Likelihood of Implementation.* What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

(4) *Support for the Project from the State Supreme Court or its Designated Agency or Council.* Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix F) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

b. For adaptation of a curriculum:

(1) *Project Description.* What is the title of the model curriculum to be adapted and who originally developed it with Institute funding? Why is this education program needed at the present time? What are the project's goals? What are the learning objectives of the adapted curriculum? What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content? Who would be responsible for adapting the model curriculum? Who would the participants be, how many would there be, how would they be recruited, and from where would they come (*e.g.*, from across the State, from a single local jurisdiction, from a multi-State region)?

(2) *Need for Funding.* Why are sufficient State or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the adapted curriculum in the future using State or local funds, once it has been successfully adapted and tested?

(3) *Likelihood of Implementation.* What is the proposed timeline, including the project start and end dates? On what date(s) would the judicial branch education program be presented? What process would be used to modify and present the program? Who would serve as faculty, and how were they selected? What measures would be taken to facilitate subsequent presentations of the program? (Ordinarily, an independent evaluation of a curriculum adaptation project is not required; however, the results of any evaluation should be included in the final report.)

(4) *Expressions of Interest by Judges and/or Court Personnel.* Does the proposed program have the support of the court system leadership, and of judges, court managers, and judicial branch education personnel who are expected to attend? (This may be demonstrated by attaching letters of support.)

(5) *Chief Justice's Concurrence.* Local courts should attach a concurrence form signed by the Chief Justice of the State or his or her designee. (See Form B, Appendix F.)

4. Budget and Matching State Contribution

Applicants should attach a copy of budget Form E (see Appendix G) and a budget narrative (see A.4. in this section) that describes the basis for the computation of all project-related costs and the source of the match offered. As with other awards to State or local courts, match must be provided in an amount equal to at least 50% of the grant amount requested, and 20% of the match provided must be cash.

5. Submission Requirements

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters by January 10, 2003 will be notified of the Board's decision by March 28, 2003; those submitting letters between January 11 and February 28, 2003 will be notified by May 30, 2003; those submitting letters between March 1 and June 6, 2003 will be notified by August 29, 2003; and those submitting letters between June 7 and September 26, 2003 will be notified by December 12, 2003.

For curriculum adaptation requests, applicants should allow at least 60 days between the notification deadline and the date of the proposed program to allow sufficient time for needed planning. For example, a court that plans to conduct an education program in late May 2003 should submit its application no later than January 10, 2003, in time for the Board's decision by March 28, 2003.

G. Scholarships

1. Purpose and Scope

The purposes of the Institute scholarship program are to enhance the skills, knowledge, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of

attending an educational program in another State. An applicant may apply for a scholarship for only one educational program during any one application cycle.

Scholarship funds may be used only to cover the costs of tuition and transportation expenses. Transportation expenses may include round-trip coach airfare or train fare. Scholarship recipients are strongly encouraged to take advantage of excursion or other special airfares (*e.g.*, reductions offered when a ticket is purchased 21 days in advance of the travel date) when making their travel arrangements. Recipients who drive to a program site may receive $.345/mile up to the amount of the advanced-purchase round-trip airfare between their homes and the program sites. Funds to pay tuition and transportation expenses in excess of $1,500 and other costs of attending the program—such as lodging, meals, materials, transportation to and from airports, and local transportation (including rental cars)—at the program site must be obtained from other sources or borne by the scholarship recipient. Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible.

A scholarship is not transferable to another individual. It may be used only for the course specified in the application unless the applicant's request to attend a different course that meets the eligibility requirements is approved in writing by the Institute. Decisions on such requests will be made within 30 days after the receipt of the request letter.

2. Eligibility Requirements

For a summary of the Scholarship award process, visit the Institute's web site at *www.statejustice.org* and click on On-Line Tutorials, then Scholarship.

a. Recipients. Scholarships can be awarded only to full-time judges of State or local trial and appellate courts; full-time professional, State, or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

b. Courses. A Scholarship can be awarded only for a course presented in a State other than the one in which the applicant resides or works. The course must be designed to enhance the skills of new or experienced judges and court managers; address any of the topics listed in the Institute's Special Interest categories; or be offered by a recognized graduate program for judges or court managers. The annual or mid-year meeting of a State or national organization of which the applicant is a member does not qualify as an out-of-State educational program for scholarship purposes, even though it may include workshops or other training sessions.

Applicants are encouraged not to wait for the decision on a scholarship to register for an educational program they wish to attend.

3. Forms

a. Scholarship Application—Form S–1 (Appendix H). The Scholarship Application requests basic information about the applicant and the educational program the applicant would like to attend. It also addresses the applicant's commitment to share the skills and knowledge gained with local court colleagues and to submit an evaluation of the program the applicant attends. The Scholarship Application must bear the original signature of the applicant. Faxed or photocopied signatures will not be accepted.

b. Scholarship Application Concurrence—Form S–2 (Appendix H). Judges and court managers applying for Scholarships must submit the written concurrence of the Chief Justice of the State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (see Appendix H). The signature of the presiding judge of the applicant's court cannot be substituted for that of the Chief Justice or the Chief Justice's designee. Court managers, other than elected clerks of court, also must submit a letter of support from their immediate supervisors.

4. Submission Requirements

Scholarship applications must be submitted during the periods specified below:

January 3 and March 3, 2003 for programs beginning between April 1 and June 30, 2003;

April 1 and June 2, 2003 for programs beginning between July 1 and September 30, 2003;

July 7 and August 29, 2003 for programs beginning between October 1 and December 31, 2003; and

October 1 and December 1, 2003 for programs beginning between January 1 and March 31, 2004.

No exceptions or extensions will be granted. Applications sent prior to the beginning of an application period will be treated as having been sent one week after the beginning of that application period. All the required items must be received for an application to be considered. If the Concurrence form or letter of support is sent separately from the application, the postmark date of the last item to be sent will be used in applying the above criteria.

All applications should be sent by mail or courier (not fax or e-mail) to: Scholarship Program Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

VII. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter acknowledging receipt of the application.

B. Selection Criteria

1. Project Grant and Continuation Grant Applications

a. All applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

(1) The soundness of the methodology;

(2) The demonstration of need for the project;

(3) The appropriateness of the proposed evaluation design;

(4) The applicant's management plan and organizational capabilities;

(5) The qualifications of the project's staff;

(6) The products and benefits resulting from the project, including the extent to which the project will have long-term benefits for State courts across the nation;

(7) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions;

(8) The reasonableness of the proposed budget;

(9) The demonstration of cooperation and support of other agencies that may be affected by the project; and

(10) The proposed project's relationship to one of the Special Interest categories set forth in section II.A.

b. For continuation grant applications, the key findings and recommendations of evaluations and the proposed responses to those findings and recommendations also will be considered.

c. In determining which projects to support, the Institute will also consider

whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see section IV.); the availability of financial assistance from other sources for the project; the amount and nature (cash and in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

2. Technical Assistance Grant Applications

Technical Assistance Grant applications will be rated on the basis of the following criteria:

a. Whether the assistance would address a critical need of the court;

b. The soundness of the technical assistance approach to the problem;

c. The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

d. The court's commitment to act on the consultant's recommendations; and

e. The reasonableness of the proposed budget.

The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

3. Judicial Branch Education Technical Assistance Grant Applications

Judicial Branch Education Technical Assistance Grant applications will be rated on the basis of the following criteria:

a. For on-site consultant assistance:

(1) Whether the assistance would address a critical need of the court;

(2) The soundness of the technical assistance approach to the problem;

(3) The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

(4) the court's commitment to act on the consultant's recommendations; and

(5) the reasonableness of the proposed budget.

b. For curriculum adaptation projects:

(1) The goals and objectives of the proposed project;

(2) The need for outside funding to support the program;

(3) The appropriateness of the approach in achieving the project's educational objectives;

(4) The likelihood of effective implementation and integration of the modified curriculum into the State's or local jurisdiction's ongoing educational programming; and

(5) Expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project.

The Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

4. Scholarships

Scholarships will be awarded on the basis of:

a. The date on which the application and concurrence (and support letter, if required) were sent;

b. The unavailability of State or local funds to cover the costs of attending the program or scholarship funds from another source;

c. The absence of educational programs in the applicant's State addressing the topic(s) covered by the educational program for which the scholarship is being sought;

d. Geographic balance among the recipients;

e. The balance of scholarships among educational programs;

f. The balance of scholarships among the types of courts represented; and

g. The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

The postmark or courier receipt will be used to determine the date on which the application form and other required items were sent.

C. Review and Approval Process

1. Project and Continuation Grant Applications

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for grants. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

2. Technical Assistance and Judicial Branch Education Technical Assistance Grant Applications

The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. Applications will be reviewed competitively by a committee of the Board of Directors. The Board of Directors has delegated its authority to approve Technical Assistance and Judicial Branch Education Technical Assistance Grants to the committee established for each program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

3. Scholarships

Scholarship applications are reviewed quarterly by a committee of the Institute's Board of Directors. The Board of Directors has delegated its authority to approve Scholarships to the committee established for the program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

1. The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications. For all applications (except Scholarships), the Institute also will convey the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but it does not prohibit resubmission of a proposal based on that application in a subsequent funding cycle. The Institute will also notify the State court administrator when grants are approved by the Board to support projects that will be conducted by or involve courts in that State.

2. The Institute intends to notify each Scholarship applicant of the Board committee's decision within 30 days after the close of the relevant application period.

F. Response to Notification of Approval

With the exception of those approved for Scholarships, applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may be rescinded and the application presented to the Board for reconsideration.

VIII. Compliance Requirements

The State Justice Institute Act contains limitations and conditions on grants, contracts, and cooperative agreements awarded by the Institute. The Board of Directors has approved additional policies governing the use of Institute grant funds. These statutory and policy requirements are set forth below.

A. Recipients of Project Grants

1. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

2. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, the recipient must submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

3. Audit

Recipients of project grants must provide for an annual fiscal audit which includes an opinion on whether the financial statements of the grantee present fairly its financial position and its financial operations are in accordance with generally accepted accounting principles. (See section IX.K. of the Guideline for the requirements of such audits.) Scholarship recipients and recipients of Solutions Project State Court Information Collection Grants, Judicial Branch Education Technical Assistance Grants, and Technical Assistance Grants are not required to submit an audit, but they must maintain appropriate documentation to support all expenditures.

4. Budget Revisions

Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval.

5. Conflict of Interest

Personnel and other officials connected with Institute-funded programs must adhere to the following requirements:

a. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where, to his or her knowledge, he or she or his or her immediate family, partners, organization other than a public agency in which he or she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

b. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

(1) Using an official position for private gain; or

(2) affecting adversely the confidence of the public in the integrity of the Institute program.

c. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

6. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

7. Lobbying

a. Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive Orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

b. It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

8. Matching Requirements

All grantees are required to provide match. See section III.L. for the definition of match. The amount and nature of required match depends on the type of organization receiving the grant and the duration of the Institute's support.

The grantee is responsible for ensuring that the total amount of match proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see section IX.E.1.).

The amount and nature of unrequired match contributed by applicants is a factor the Board of Directors considers in making grant decisions. Cash match and non-cash match may be provided, subject to the requirements of subsections a. and b. below.

The requirement for State and local courts to provide match may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State and

approval by the Board of Directors. 42 U.S.C. 10705(d). The requirement for other grantees to provide match may be waived in similarly exceptional circumstances upon the request of a responsible official and approval by the Institute's Board of Directors.

a. New Project Grants. (1) *State and local units of government.* All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount of the Institute's award. For example, if a State court or executive branch agency receives a $100,000 grant from the Institute, it must provide a $50,000 match (50% of the $100,000 awarded by SJI). At least 20% of the required match for a new grant ($10,000 in the example) must be provided in the form of cash rather than in-kind support (*e.g.*, the value of staff time contributed to the project).

(2) *All other grantees.* All other grantees are required to contribute a match of 25% to a new SJI-funded project. For example, if a non-profit organization receives a $100,000 grant from SJI, it must provide a $25,000 match. A non-profit organization must provide at least 10% of the required match for a new grant ($2,500 in the example) in the form of cash.

b. Continuation Grants. All grantees are required to assume a greater share of project support over time.

(1) *State and local units of government.* State and local units of government are required to provide match equaling at least 50% of the amount provided by SJI in the first year of the project, 60% in the second year, 75% in the third year, 90% in the fourth year, and 100% in the fifth year. For example, if SJI awards a State court $100,000 for the first year of a grant, the court would be required to provide $50,000 in match. If the second-year grant is also $100,000, the court is required to provide $60,000 in match. A court that wishes to limit its second-year contribution to $50,000 may ask the Institute for a reduced amount, *i.e.*, $83,333, in order to meet the 60% requirement.

(2) *All other grantees.* All other grantees are required to provide match equaling at least 25% of the amount provided by the Institute in the first year of the project, 30% in the second year, 37.5% in the third year, 45% in the fourth year, and 50% in the fifth year. For example, if the Institute awards a non-profit organization $100,000 for the first year of a grant, the organization must provide $25,000 in match. If the second-year grant is also $100,000, the grantee is required to provide $30,000 in match. An organization that wishes to limit its second-year contribution to $25,000 may ask the Institute for a reduced amount, *i.e.*, $83,333, in order to meet the 30% requirement.

9. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

10. Political Activities

No recipient may contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

11. Products

a. Acknowledgment, Logo, and Disclaimer. (1) Recipients of Institute funds must acknowledge prominently on all products developed with grant funds that support was received from the Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available from the Institute upon request.

(2) Recipients also must display the following disclaimer on all grant products: ''This [document, film, videotape, *etc.*] was developed under [grant/cooperative agreement] number SJI-[insert number] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), *etc.*] and do not necessarily represent the official position or policies of the State Justice Institute.''

b. Charges for Grant-Related Products/Recovery of Costs. (1) When Institute funds fully cover the cost of developing, producing, and disseminating a product (*e.g.*, a report, curriculum, videotape, or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

(2) Applicants should disclose their intent to sell grant-related products in the application. Grantees must obtain the written prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

(3) In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute. See sections III.O. and IX.G. for requirements regarding project-related income realized during the project period.

c. Copyrights. Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

d. Distribution. In addition to the distribution specified in the grant application, grantees shall send:

(1) Fifteen (15) copies of each final product developed with grant funds to the Institute, unless the product was developed under either a Technical Assistance or a Judicial Branch Education Technical Assistance grant, in which case submission of 2 copies is required;

(2) An electronic version of the product in .html format to the Institute; and

(3) One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of the libraries is contained in Appendix C. Labels for these libraries are available on the Institute's Web site, *www.statejustice.org.*) Grantees that develop web-based electronic products must send a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the Web site or electronic product. Recipients of Judicial Branch Education Technical Assistance and Technical Assistance Grants are not required to submit final products to State libraries.

(5) A press release describing the project and announcing the results to a list of national and State judicial branch organizations provided by the Institute.

e. Institute Approval. No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. The draft must be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes required by the Institute. Grantees must provide for timely reviews by the Institute of videotape or CD–ROM products at the treatment, script, rough cut, and final stages of development or their equivalents.

f. Original Material. All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

12. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

13. Reporting Requirements

a. Recipients of Institute funds other than Scholarships must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

b. The quarterly Financial Status Report must be submitted in accordance with section IX.H.2. of this Guideline. A final project Progress Report and Financial Status Report shall be submitted within 90 days after the end of the grant period in accordance with section IX.L.1. of this Guideline.

14. Research

a. Availability of Research Data for Secondary Analysis. Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

b. Confidentiality of Information. Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

c. Human Subject Protection. All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

15. State and Local Court Applications

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application. 42 U.S.C. 10705(b)(4).

16. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

a. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);

b. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

c. Solely to purchase equipment.

17. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award. 42 U.S.C. 10708(a).

18. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute

that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

B. Recipients of Judicial Branch Education Technical Assistance and Technical Assistance Grants

Recipients of Judicial Branch Education Technical Assistance and Technical Assistance Grants must comply with the requirements listed in section VIII.A. (except the requirements pertaining to audits in section VIII.A.3. and product dissemination in section VIII.A.11.d. and e.) and the reporting requirements below:

1. Judicial Branch Education Technical Assistance Grant Reporting Requirements

Recipients of Judicial Branch Education Technical Assistance Grants must:

a. Submit one copy of the manuals, handbooks, conference packets, or consultant's report developed under the grant at the conclusion of the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the educational program in the future and/or implement the consultant's recommendations, as well as two copies of the consultant's report; and

b. complete a Technical Assistance Evaluation Form at the conclusion of the grant period, if appropriate.

2. Technical Assistance Grant Reporting Requirements

Recipients of Technical Assistance Grants must:

a. Submit to the Institute one copy of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report; and

b. complete a Technical Assistance Evaluation Form at the conclusion of the grant period.

C. Scholarship Recipients

1. Scholarship recipients are responsible for disseminating the information received from the course to their court colleagues locally and, if possible, throughout the State (*e.g.*, by developing a formal seminar, circulating the written material, or discussing the information at a meeting or conference).

Recipients also must submit to the Institute a certificate of attendance at the program, an evaluation of the educational program they attended, and a copy of the notice of any scholarship funds received from other sources. A copy of the evaluation must be sent to the Chief Justice of the Scholarship recipient's State. A State or local jurisdiction may impose additional requirements on scholarship recipients.

2. To receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program).

Scholarship Payment Vouchers should be submitted within 90 days after the end of the course which the recipient attended.

3. Scholarship recipients are encouraged to check with their tax advisors to determine whether the scholarship constitutes taxable income under Federal and State law.

IX. Financial Requirements

A. Purpose

The purpose of this section is to establish accounting system requirements and offer guidance on procedures to assist all grantees, subgrantees, contractors, and other organizations in:

1. Complying with the statutory requirements for the award, disbursement, and accounting of funds;

2. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

3. Generating financial data to be used in planning, managing, and controlling projects; and

4. Facilitating an effective audit of funded programs and projects.

B. References

Except where inconsistent with specific provisions of this Guideline, the following circulars are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. The circulars supplement the requirements of this section for accounting systems and financial record-keeping and provide additional guidance on how these requirements may be satisfied. (Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB Web site at *http://www.whitehouse.gov/OMB.*)

1. *Office of Management and Budget (OMB) Circular A–21,* Cost Principles for Educational Institutions.

2. *Office of Management and Budget (OMB) Circular A–87,* Cost Principles for State and Local Governments.

3. *Office of Management and Budget (OMB) Circular A–88 (revised),* Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

4. *Office of Management and Budget (OMB) Circular A–102,* Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

5. *Office of Management and Budget (OMB) Circular A–110,* Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

6. *Office of Management and Budget (OMB) Circular A–122,* Cost Principles for Non-profit Organizations.

7. *Office of Management and Budget (OMB) Circular A–128,* Audits of State and Local Governments.

8. *Office of Management and Budget (OMB) Circular A–133,* Audits of Institutions of Higher Education and Other Non-profit Institutions.

C. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

a. Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. (See section III.F.)

b. The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial record-keeping by the subgrantee. These responsibilities include:

(1) *Reviewing Financial Operations.* The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system, and procedures. Particular attention should be directed to the maintenance of current financial data.

(2) *Recording Financial Activities.* The subgrantee's grant award or contract

obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court or evidenced by report forms duly filed by the subgrantee. Matching contributions provided by subgrantees should likewise be recorded, as should any project income resulting from program operations.

(3) *Budgeting and Budget Review.* The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

(4) *Accounting for Match.* The State Supreme Court or its designee will ensure that subgrantees comply with the match requirements specified in this Guideline (see section VIII.A.8.).

(5) *Audit Requirement.* The State Supreme Court or its designee is required to ensure that subgrantees meet the necessary audit requirements set forth by the Institute (see sections K. below and VIII.A.3.)

(6) *Reporting Irregularities.* The State Supreme Court, its designees, and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

D. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. provides cost and property controls to assure optimal use of grant funds;

5. is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. meets the prescribed requirements for periodic financial reporting of operations; and

7. provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

E. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute must be structured and executed on a *total project cost* basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget serve as the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. Ordinarily, the full matching share must be obligated during the award period; however, with the written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. If a proposed cash or in-kind match is not fully met, the Institute may reduce the award amount accordingly to maintain the ratio of grant funds to matching funds stated in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section IX.C.2. above.)

F. Maintenance and Retention of Records

All financial records, including supporting documents, statistical records, and all other information pertinent to grants, subgrants, cooperative agreements, or contracts under grants, must be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this section.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports are required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

G. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute. (See section

IX.H.2. below.) The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State, including institutions of higher education and hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income From the Sale of Grant Products

If the sale of products occurs during the project period, the costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs as specified in section VIII.A.11.b.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

H. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. *Request for Advance or Reimbursement of Funds.* Grantees will receive funds on a ''check-issued'' basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

b. *Continuation Awards.* For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation grants should treat each grant as a new project and number the requests accordingly (*i.e.*, on a grant rather than a project basis). For example, the first request for payment from a continuation grant would be number 1, the second number 2, etc. (See Appendix B, Answers to Grantees' Frequently Asked Questions, for further guidance.)

c. *Termination of Advance and Reimbursement Funding.* When a grantee organization receiving cash advances from the Institute:

(1) Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

(2) Engages in the improper award and administration of subgrants or contracts; or

(3) Is unable to submit reliable and/or timely reports; the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by check to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected.

d. *Principle of Minimum Cash on Hand.* Grantees should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days.

2. Financial Reporting

a. *General Requirements.* To obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees submit timely reports for review.

b. Two copies of the Financial Status Report are required from all grantees, other than scholarship recipients, for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, is included in each official Institute Award package. If a grantee requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, to support the Request for Advance or Reimbursement.

c. *Additional Requirements for Continuation Grants.* Grantees receiving continuation grants should number their quarterly Financial Status Reports on a grant rather than a project basis. For example, the first quarterly report for a continuation grant award should be number 1, the second number 2, etc.

3. Consequences of Non-Compliance With Submission Requirement

Failure of the grantee to submit required financial and progress reports may result in suspension or termination of grant payments.

I. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability is determined in accordance with the principles set forth in *OMB Circulars A–21,* Cost Principles Applicable to Grants and Contracts with Educational Institutions; A–87, Cost Principles for State and Local Governments; and A–122, Cost Principles for Non-profit Organizations. No costs may be recovered to liquidate obligations incurred after the approved grant period. Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB Web site at *http://www.whitehouse.gov/OMB.*

2. Costs Requiring Prior Approval

a. *Pre-agreement Costs.* The written prior approval of the Institute is required for costs considered necessary

but which occur prior to the start date of the project period.

b. *Equipment.* Grant funds may be used to purchase or lease only that equipment essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or software to be purchased exceeds $3,000.

c. *Consultants.* The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day. Institute funds may not be used to pay a consultant more than $900 per day.

d. *Budget Revisions.* Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent (5%) of the approved original budget or the most recently approved revised budget require prior Institute approval. See section X.A.1.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the grantee. If the grantee does not have an established written travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. Although the Institute's policy requires all costs to be budgeted directly, it will accept indirect costs if a grantee has an indirect cost rate approved by a Federal agency as set forth below. However, recoverable indirect costs are limited to no more than 75% of a grantee's direct personnel costs (salaries plus fringe benefits). Grantees may apply unrecoverable indirect costs to meet their required matching contributions, including the required level of cash match. See sections III.L. and VI.A.4.k.

a. *Approved Plan Available.* (1) A copy of an indirect cost rate agreement or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars must be submitted to the Institute.

(2) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, *e.g.,* accounting services, legal services, building occupancy and maintenance, *etc.,* as direct costs.

b. *Establishment of Indirect Cost Rates.* To be reimbursed for indirect costs, a grantee must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular.

c. *No Approved Plan.* If an indirect cost proposal for recovery of indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received.

J. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute has adopted the standards set forth in Attachment O of *OMB Circular A–102.* Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of *OMB Circular A–110.*

2. Property Management Standards

The property management standards as prescribed in Attachment N of *OMB Circulars A–102* and *A–110* apply to all Institute grantees and subgrantees except as provided in section VIII.A.18. All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

K. Audit Requirements

1. Implementation

Each recipient of a Project Grant (other than a State court receiving an information collection grant in connection with the Solutions Project) must provide for an annual fiscal audit. This requirement also applies to a State or local court receiving a subgrant from the State Supreme Court. The audit may be of the entire grantee or subgrantee organization or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and *OMB Circular A–128,* or *OMB Circular A–133,* will satisfy the requirement for an annual fiscal audit. The audit must be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. Grantees must send two copies of the audit report to the Institute. Grantees that receive funds from a Federal agency and satisfy audit requirements of the cognizant Federal agency must submit two copies of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grantee must have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up; maintaining a record of the actions taken on recommendations and time schedules; responding to and acting on audit recommendations; and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

Ordinarily, the Institute will not make a new grant award to an applicant that has an unresolved audit report involving Institute awards. Failure of the grantee to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

L. Close-Out of Grants

1. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (see section IX.L.2. below), the following documents must be submitted to the Institute by grantees (other than scholarship recipients):

a. Financial Status Report. The final report of expenditures must have no

unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final Financial Status Report.

b. Final Progress Report. This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

These reporting requirements apply at the conclusion of every grant other than a scholarship, even when the project will continue under a continuation grant.

2. Extension of Close-Out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

X. Grant Adjustments

All requests for programmatic or budgetary adjustments requiring Institute approval must be submitted by the project director in a timely manner (ordinarily 30 days prior to the implementation of the adjustment being requested). All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments that require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories that (a) transfer grant funds to an unbudgeted cost category or (b) individually or cumulatively exceed five percent (5%) of the approved original budget or the most recently approved revised budget. *See* section IX.I.2.d.

For continuation grants, funds from the original award may be used during the new grant period and funds awarded through a continuation grant may be used to cover project-related expenditures incurred during the original award period, with the prior written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see D. below in this section).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see E. below).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see F. and G. below).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section VIII.A.2.).

8. A change in or temporary absence of the person responsible for managing and reporting on the grant's finances.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (see H. below).

11. A transfer of the grant to another recipient.

12. Preagreement costs (see section IX.I.2.a.).

13. The purchase of automated data processing equipment and software (see section IX.I.2.b.).

14. Consultant rates (see section IX.I.2.c.).

15. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Requests for Grant Adjustments

All grantees must promptly notify their SJI program managers, in writing, of events or proposed changes that may require adjustments to the approved project design. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute. A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany a request for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section IX.L.2.).

F. Temporary Absence of the Project Director

Whenever an absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon

notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

No principal activity of a grant-supported project may be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements must be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval of the Institute at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, will be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

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David I. Tevelin,

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Appendix A—Recommendations to Grant Writers

Over the past 15 years, the Institute staff has reviewed approximately 1,750 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing an application. Applications should, however, be presented in the format specified in section VI. of the Guideline.

1. What Is the Subject or Problem You Wish To Address?

Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

2. What Do You Want To do?

Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (*e.g.*, to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (*e.g.*, hold 3 training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper, nor does a clever but uninformative title.

3. How Will You Do It?

Describe the methodology carefully so that what you propose to do and how you would do it are clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks, and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

4. How Will You Know It Works?

Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Applications should present the criteria that will be used to evaluate the project's effectiveness; identify program elements that will require further modification; and describe how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

5. How Will Others Find Out About It?

Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings ''will be made available to'' the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

6. What Are the Specific Costs Involved?

The budget in an application should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of ''Other'' or ''Miscellaneous'' items should be specified in the application budget narrative, and should not include set-asides for undefined contingencies.

7. What, if Any, Match Is Being Offered?

Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required to contribute a match of at least 50 percent of the funds requested from the Institute for a new grant. At least 20% of the required match must be in the form of cash. All other applicants must contribute a match of 25% to a new SJI-funded project, and at least 10% of that match must be in the form of cash.

The match requirement works as follows: If, for example, a State court system receives a $100,000 grant from the Institute, it must provide a $50,000 match; at least 20% of the required match for a new grant ($10,000 in the example) must be in the form of cash rather than in-kind support (*e.g.*, the value of staff time contributed to the project). If a non-profit organization receives a $100,000 grant from SJI, it must provide a $25,000 match, and at least 10% of that match ($2,500 in the example) must be in the form of cash.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). The nature of the match (cash or in-kind) should be explained and the tasks and line items for which costs will be covered wholly or in part by match should be specified.

8. Which of the Two Budget Forms Should Be Used?

Section VI.A.1.c. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the application requests $100,000 or more. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

9. How Much Detail Should Be Included in the Budget Narrative?

The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VI.A.4. of the Guideline. To avoid common shortcomings of application budget narratives, applicants should include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (*e.g.*, Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, the nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (*e.g.*, 100 reports x 75 pages each x .05/page = $375.00). Supply and expense estimates offered simply as ''based on experience'' are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

10. What Travel Regulations Apply to the Budget Estimates?

Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which policies apply to the project.

The budget narrative also should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed and explained separately. It is preferable for the budget to be based on the actual costs of traveling to and from the project or meeting sites. If the points of origin or destination are not known at the time the budget is prepared, an average airfare may be used to estimate the travel costs. For example, if it is anticipated that a project advisory committee will include members from around the country, a reasonable airfare from a central point to the meeting site, or the average of airfares from each coast to the meeting site, may be used. Applicants should arrange travel so as to be able to take advantage of advanced-purchase price discounts whenever possible.

11. May Grant Funds Be Used To Purchase Equipment?

Generally, grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. The budget narrative must list the equipment to be purchased and explain why the equipment is necessary to the success of the project. The Institute's written prior approval is required when the amount of computer hardware to be purchased or leased exceeds $10,000, or the software to be purchased exceeds $3,000.

12. To What Extent May Indirect Costs Be Included in the Budget Estimates?

If an indirect cost rate has been approved by a Federal agency within the last two years, an indirect cost recovery estimate may be included in the budget. Recoverable indirect costs are limited to no more than 75% of a grantee's direct personnel costs (salaries plus fringe benefits). Grantees may apply unrecoverable indirect costs to meet their required matching contributions, including the required level of cash match. A copy of the approved indirect cost rate agreement should be submitted as an appendix to the application.

If an applicant does not have an approved rate agreement and cannot budget directly for all costs, an indirect cost rate proposal should be prepared in accordance with section IX.I.4. of the Guideline, based on the applicant's audited financial statements for the prior fiscal year. (Applicants lacking an audit should budget all project costs directly.)

13. What Meeting Costs May Be Covered With Grant Funds?

SJI grant funds may cover the reasonable cost of meeting rooms, necessary audio-visual equipment, meeting supplies, and working meals.

14. Does the Budget Truly Reflect All Costs Required To Complete the Project?

After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (*e.g.*, development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

Appendix B—Answers to Grantees' Frequently Asked Questions

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the Guideline. On the basis of monitoring more than 1,500 grants, the Institute staff offers the following suggestions to aid grantees in meeting the administrative and substantive requirements of their grants.

1. After the Grant Has Been Awarded, When Are the First Quarterly Reports due?

Quarterly Progress Reports and Financial Status Reports must be submitted within 30 days after the end of every calendar quarter—*i.e.*, no later than January 30, April 30, July 30, and October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first quarterly progress report describing project activities between December 1 and December 31 will be due on January 30. A Financial Status Report should be submitted even if funds have not been obligated or expended.

By documenting what has happened over the past three months, quarterly progress reports provide an opportunity for project staff and Institute staff to resolve any questions before they become problems, and make any necessary changes in the project time schedule, budget allocations, etc. The quarterly progress report should describe project activities, their relationship to the approved timeline, and any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. An original and one copy of a quarterly progress report and attachments should be submitted to the Institute.

Additional quarterly progress report or Financial Status Report forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

2. Do Reporting Requirements Differ for Continuation Grants?

Recipients of continuation grants are required to submit quarterly progress and Financial Status Reports on the same schedule and with the same information as recipients of grants for single new projects.

A continuation grant should be considered as a separate phase of the project. The reports should be numbered on a grant rather than project basis. Thus, the first quarterly report filed under a continuation grant should be designated as number one, the second as number two, and so on, through the final progress and Financial Status Reports due within 90 days after the end of the grant period.

3. What Information About Project Activities Should Be Communicated to SJI?

In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend, if possible. If methodological, schedule, staff, budget allocations, or other significant changes become necessary, the grantee should contact the Program Manager prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements, quarterly financial reporting, or payment requests should be addressed to the Institute's Grants Financial Manager listed in the award letter.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

4. Why Are Special Conditions Attached to the Award document?

Special conditions may be imposed to establish a schedule for reporting certain key information, assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and provide reminders of pertinent Guideline requirements. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Managers any questions or problems they may have with the conditions. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections VIII., IX., and X. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute Finance Division staff are always available to answer questions and provide assistance regarding these provisions.

5. What Is a Grant Adjustment?

A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents or deobligate funds from the grant.

6. What Schedule Should Be Followed in Submitting Requests for Reimbursements or Advance Payments?

Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

7. Do Procedures for Submitting Requests for Reimbursement or Advance Payment Differ for Continuation Grants?

The basic procedures are the same for any grant. A continuation grant should be considered as a separate phase of the project. Payment requests should be numbered on a grant rather than a project basis. The first request for funds from a continuation grant should be designated as number one, the second as number two, and so on through the final payment request for that grant.

8. If Things Change During the Grant Period, Can Funds Be Reallocated From One Budget Category to Another?

The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations is expected to allocate funds to a previously unbudgeted cost category or to exceed five percent (5%) of the approved project budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request prior Institute approval.

The same standard applies to continuation grants. In addition, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the continuation award, or to use continuation grant monies to cover costs incurred during the original grant period.

9. What Is the 90-Day Close-Out Period?

Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

During the 90 days following the end of the award period, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day ''close-out-period.'' Any unexpended monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

10. Are Funds Granted by SJI ''Federal'' Funds?

The State Justice Institute Act provides that, except for purposes unrelated to this question, ''the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.'' 42 U.S.C.10704(c)(1). Because SJI receives appropriations from Congress, some grantee auditors have reported SJI grant funds as ''Other Federal Assistance.'' This classification is acceptable to SJI but is not required.

11. If SJI Is Not a Federal Agency, do OMB Circulars Apply With Respect to Audits?

Unless they are inconsistent with the express provisions of the SJI Grant Guideline, Office of Management and Budget (OMB) Circulars A–110, A–21, A–87, A–88, A–102, A–122, A–128, and A–133 are incorporated into the Grant Guideline by reference. Because the Institute's enabling legislation specifically requires the Institute to ''conduct, or require each recipient to provide for, an annual fiscal audit'' (see 42 U.S.C. 10711(c)(1)), the Grant Guideline sets forth options for grantees to comply with this statutory requirement. (See Section IX.K.)

SJI will accept audits conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133 to satisfy the annual fiscal audit requirement. Grantees that are required to undertake these audits in conjunction with Federal grants may include SJI funds as part of the audit even if the receipt of SJI funds would not require such audits. This approach gives grantees an option to fold SJI funds into the governmental audit rather than to undertake a separate audit to satisfy SJI's Guideline requirements.

In sum, educational and nonprofit organizations that receive payments from the Institute that are sufficient to meet the applicability thresholds of OMB Circular A–133 must have their annual audit conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States rather than with generally accepted auditing standards. Grantees in this category that receive amounts below the minimum threshold referenced in Circular A–133 must also submit an annual audit to SJI, but they would have the option to conduct an audit of the entire grantee organization in accordance with generally accepted auditing standards; include SJI funds in an audit of Federal funds conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133; or conduct an audit of only the SJI funds in accordance with generally accepted auditing standards. (See Guideline section IX.K.) Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB Web site at *http://www.whitehouse.gov/OMB.*

12. Does SJI Have a CFDA Number?

Auditors often request that a grantee provide the Institute's Catalog of Federal Domestic Assistance (CFDA) number for guidance in conducting an audit in

accordance with Government Accounting Standards.

Because SJI is not a Federal agency, it has not been issued such a number, and there are no additional compliance tests to satisfy under the Institute's audit requirements beyond those of a standard governmental audit.

Moreover, because SJI is not a Federal agency, SJI funds should not be aggregated with Federal funds to determine if the applicability threshold of Circular A–133 has been reached. For example, if in fiscal year 2001 grantee ''X'' received $10,000 in Federal funds from a Department of Justice (DOJ) grant program and $20,000 in grant funds from SJI, the minimum A–133 threshold would not be met. The same distinction would preclude an auditor from considering the additional SJI funds in determining what Federal requirements apply to the DOJ funds.

Grantees who are required to satisfy either the Single Audit Act or OMB Circulars A–128 or A–133, and who include SJI grant funds in those audits, need to remember that because of its status as a private non-profit corporation, SJI is not on routing lists of cognizant Federal agencies. Therefore, the grantee needs to submit a copy of the audit report prepared for such a cognizant Federal agency directly to SJI. The Institute's audit requirements may be found in section IX.K. of the Grant Guideline.

Appendix C—SJI Libraries: Designated Sites and Contacts

Alabama

Supreme Court Library

Mr. Timothy A. Lewis, State Law Librarian, Alabama Supreme Court Bldg., 300 Dexter Avenue, Montgomery, AL 36104, (334) 242–4347,

Alaska

Anchorage Law Library

Ms. Cynthia S. Fellows, State Law Librarian, Alaska Court Libraries, 820 W. Fourth Ave., Anchorage, AK 99501, (907) 264–0583

Arizona

State Law Library

Ms. Gladys Ann Wells, Collection Development, Research Division, Arizona Dept. of Library, Archives and Public Records, State Law Library, 1501 W. Washington, Phoenix, AZ 85007, (602) 542–4035

Arkansas

Administrative Office of the Courts

Mr. James D. Gingerich, Director, Administrative Office of the Courts, Supreme Court of Arkansas, Justice Building, Little Rock, AR 72201, (501) 682–9400

California

Administrative Office of the Courts

Mr. William C. Vickrey, Administrative Director of the Courts, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94107, (415) 865–4200

Colorado

Supreme Court Library

Ms. Linda Gruenthal, Deputy Supreme Court Law Librarian, Colorado State Judicial Building, 2 East 14th Avenue, Denver, CO 80203, (303) 864–4522

Connecticut

State Library

Ms. Denise D. Jernigan, State Librarian, Connecticut State Library, 231 Capital Avenue, Hartford, CT 06106, (860) 566–2516

Delaware

Administrative Office of the Courts

Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street,11th Floor, P.O. Box 8911, Wilmington, DE 19801, (302) 577–8481

District of Columbia

Executive Office, District of Columbia Courts

Ms. Anne B. Wicks, Executive Officer, District of Columbia Courts, 500 Indiana Avenue, NW., Suite 1500, Washington, DC 20001, (202) 879–1700

Florida

Administrative Office of the Courts

Ms. Dee Beranek, Deputy State Courts Administrator, Florida Supreme Court Building, 500 South Duval Street, Tallahassee, FL 32399–1900, (850) 922–5081

Georgia

Administrative Office of the Courts

Mr. David Ratley, Director, Administrative Office of the Courts, 47 Trinity Avenue, Suite 414, Atlanta, GA 30334, (404) 656–5171

Hawaii

Supreme Court Library

Ms. Ann Koto, State Law Librarian, The Supreme Court Law Library, 417 South King St., Room 119, Honolulu, HI 96813, (808) 539–4965

Idaho

AOC Judicial Education Library/State Law Library

Ms. Beth Peterson, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State St., Boise, ID 83720, (208) 334–3316

Illinois

Supreme Court Library

Ms. Brenda Larison, Supreme Court of Illinois Library, 200 East Capitol Avenue, Springfield, IL 62701–1791, (217) 782–2425

Indiana

Supreme Court Library

Mr. Dennis Lager, Supreme Court Librarian, Supreme Court Library, State House, Room 316, Indianapolis, IN 46204, (317) 232–2557

Iowa

Administrative Office of the Court

Dr. Jerry K. Beatty, Executive Director, Judicial Education & Planning, Office of the State Court Administrator, State Capital Building, Des Moines, IA 50319–0001, (515) 281–8279

Kansas

Supreme Court Library

Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, 301 West 10th Street, Topeka, KS 66612, (913) 296–3257

Kentucky

State Law Library

Ms. Marge Jones, State Law Librarian, State Law Library, State Capital, Room 200–A, Frankfort, KY 40601, (502) 564–4848

Louisiana

State Law Library

Ms. Carol Billings, Director, Louisiana Law Library, 301 Loyola Avenue, New Orleans, LA 70112, (504) 568–5705

Maine

State Law and Legislative Reference Library

Ms. Lynn E. Randall, State Law Librarian, 43 State House Station, Augusta, ME 04333, (207) 287–1600

Maryland

State Law Library

Mr. Michael S. Miller, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, (410) 260–1430

Massachusetts

Middlesex Law Library

Ms. Sandra Lindheimer, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, MA 02141, (617) 494–4148

Michigan

Michigan Judicial Institute

Dawn F. McCarty, Interim Director, Michigan Judicial Institute, 222 Washington Square North, P.O. Box 30205, Lansing, MI 48909, (517) 334–7805

Minnesota

State Law Library (Minnesota Judicial Center)

Mr. Marvin R. Anderson, State Law Librarian, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (612) 297–2084

Mississippi

Mississippi Judicial College

Mr. Leslie Johnson, Director, University of Mississippi, P.O. Box 8850, University, MS 38677, (601) 232–5955

Montana

State Law Library

Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, 215 North Sanders, Helena, MT 59620, (406) 444–3660

Nebraska

Administrative Office of the Courts

Mr. Joseph C. Steele, State Court Administrator, Administrative Office of the Courts/Probation, State Capitol Building, Room 1220, Post Office Box 98910, Lincoln, NE 68509–8910, (402) 471–3730

Nevada

National Judicial College

Mr. Randall Snyder, Law Librarian, National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89550, (775) 784–6747

New Hampshire

New Hampshire Law Library

Ms. Christine Swan, Law Librarian, New Hampshire Law Library, Supreme Court Building, One Noble Drive, Concord, NH 03301–6160, (603) 271–3777

New Jersey

New Jersey State Library

Ms. Marjorie Garwig, Supervising Law Librarian, New Jersey State Law Library, 185 West State Street, P.O. Box 520, Trenton, NJ 08625–0250, (609) 292–6230

New Mexico

Supreme Court Library

Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, NM 87504, (505) 827–4850

New York

Supreme Court Library

Ms. Barbara Briggs, Principal Law Librarian, New York State Supreme Court Law Library, Onondaga County Court House, 401 Montgomery Street, Syracuse, NY 13202, (315) 435–2063

North Carolina

Supreme Court Library

Mr. Thomas P. Davis, Librarian, North Carolina Supreme Court Library, P.O. Box 28006, 2 East Morgan Street, Raleigh, NC 27601, (919) 733–3425

North Dakota

Supreme Court Library

Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, Dept. 182, 2nd Floor, Judicial Wing, Bismarck, ND 58505–0540, (701) 328–2229

Northern Mariana Islands

Supreme Court of the Northern Mariana Islands

Honorable Miguel Sablan Demapan, Chief Justice, Supreme Court of the Commonwealth of the Northern Mariana Islands, P.O. Box 2165 CK, Saipan, MP 96950, (670) 236–9700

Ohio

Supreme Court Library

Mr. Paul S. Fu, Law Librarian, Supreme Court Law Library, Supreme Court of Ohio, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2044

Oklahoma

Administrative Office of the Courts

Mr. Howard W. Conyers, Administrative Director of the Courts, 1915 North Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

Oregon

Administrative Office of the Courts

Ms. Kingsley W. Click, State Court Administrator, Office of the State Court Administrator, Supreme Court Building, Salem, OR 97310, (503) 986–5900

Pennsylvania

State Library of Pennsylvania

Ms. Kathy Hale, State Justice Depository, State Library of Pennsylvania, Collection Management, Room G–48, Forum Building, P.O. Box 1601, Harrisburg, PA 17105–1601, (717) 787–5718

Puerto Rico

Office of Court Administration

Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court Administration, P.O. Box 917, Hato Rey, PR 00919

Rhode Island

Roger Williams University

Ms. Gail Winson, Director of the Library, Roger Williams University, School of Law Library, 10 Metacom Avenue, Bristol, RI 02809

South Carolina

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Steve Hinckley, Library Director, Coleman Karesh Law Library, U. S. C. Law Center, University of South Carolina, Columbia, SC 29208, (803) 777–5944

South Dakota

State Law Library

Librarian, 500 East Capitol, Pierre, South Dakota 57501, (605) 773–4898

Tennessee

Tennessee State Law Library

Honorable Cornelia A. Clark, Director, Administrative Office of the Courts,Tennessee Supreme Court, 511 Union, Nashville, TN 37243–0607, (615) 741–2687

Texas

State Law Library

Ms. Kay Schleuter, Director, State Law Library, P.O. Box 12367, Austin, TX 78711, (512) 463–1722

U.S. Virgin Islands

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00804

Utah

Utah State Judicial Administration Library

Ms. Debbie Christiansen, Utah State Judicial Administration Library, Administrative Office of the Courts, 450 South State, P.O. Box 140241, Salt Lake City, UT 84114–0241, (801) 533–6371

Vermont

Supreme Court of Vermont

Mr. Paul J. Donovan, Law Librarian, Department of Libraries, 109 State Street, Montpelier, VT 05609, (802) 828–3278

Virginia

Administrative Office of the Courts

Mr. Robert N. Baldwin, State Court Administrator, Supreme Court of Virginia, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Washington

Washington State Law Library

Ms. Deborah Norwood, State Law Librarian, Washington State Law Library, Temple of Justice, P.O. Box 40751, Olympia, WA 98504–0751, (360) 357–2136

West Virginia

Administrative Office of the Courts

Ms. Kathleen Gross, Deputy Director of Judicial Education, West Virginia Supreme Court of Appeals, State Capitol, 1900 Kanawha Boulevard East, Building 1, Room E–100, Charleston, WV 25305, (304) 558–0145

Wisconsin

State Law Library

Ms. Jane Colwin, Director of Public Services, State Law Library, 310 E. State Capitol, P.O. Box 7881, Madison, WI 53707, (608) 261–2340

Wyoming

Wyoming State Law Library

Ms. Kathleen B. Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, 2301 Capitol Avenue, Cheyenne, WY 82002, (307) 777–7509

National

American Judicature Society

Ms. Clara Wells, Assistant for Information and Library Services, 180 North Michigan Avenue, #600, Chicago, IL 60601, (312) 558–6900

National Center for State Courts

Ms. Peggy Rogers, Acquisitions/Serials Librarian, 300 Newport Avenue, Williamsburg, VA 23187–8798, (757) 259–1857

JERITT

Dr. Maureen E. Conner, Executive Director, The JERITT Project, 1407 S. Harrison, Suite 330 Nisbet, East Lansing, MI 48823–5239, (517) 353–8603, (517) 432–3965 (fax), e-mail: *connerm@msu.edu,* web site: *http://jeritt.msu.edu*

Appendix D—Illustrative List of Technical Assistance Grants

The following list presents examples of the types of technical assistance for which State and local courts can request Institute funding. Please check with the JERITT project (517/353–8603 or *jeritt@msu.edu* for more information about these and other SJI-supported technical assistance projects.

Application of Technology

Technology Plan (Office of the South Dakota State Court Administrator: SJI–99–066)

Children and Families in Court

Expanded Unified Family Court (Ventura County, CA, Superior Court: SJI–01–122)
Trial Court Performance Standards for the Unified Family Court of Delaware (Family Court of Delaware: SJI–98–205)

Court Planning, Management, and Financing

Job Classification and Pay Study of the New Hampshire Courts (New Hampshire Administrative Office of the Courts: SJI–98–011)
A Model for Building and Institutionalizing Judicial Branch Strategic Planning (12th Judicial Circuit, Sarasota, FL: SJI–98–266)
Strategic Planning (Fourth Judicial District Court, Hennepin County, MN: SJI–99–221)
Differentiated Case Management for the Improvement of Civil Case Processing in the Trial Courts of Texas (Texas Office of Court Administration: SJI–99–222)

Dispute Resolution and the Courts

Evaluating the New Mexico Court of Appeals Mediation Program (New Mexico Supreme Court: SJI–00–122)

Improving Public Confidence in the Courts

Mississippi Task Force on Gender Fairness in the Courts (Mississippi Administrative Office of the Courts: SJI–00–108)
Analysis of the Juror Debriefing Project (King County, WA, Superior Court: SJI–00–049)

Improving the Court's Response to Family Violence

New Hampshire Fatality Reviews (New Hampshire Administrative Office of the Courts: SJI–99–142)

Education and Training for Judges and Other Court Personnel

Iowa Supreme Court Advisory Committee on Judicial Branch Education (Iowa State Court Administrator's Office: SJI–01–200)

Appendix E—Illustrative List of Model Curricula

The following list includes examples of model SJI-supported curricula that State judicial educators may wish to adapt for presentation in education programs for judges and other court personnel with the assistance of a Judicial Branch Education Technical Assistance Grant. *Please refer to section VI.F. for information on submitting a letter application for a Judicial Branch Education Technical Assistance Grant.* A list of all SJI-supported education projects is available on the SJI Web site (http://www.statejustice.org). Please also check with the JERITT project (517/353–8603 or http://jeritt.msu.edu) and your State SJI-designated library (see Appendix C) for more information about these and other SJI-supported curricula that may be appropriate for in-State adaptation.

Alternative Dispute Resolution

Judicial Settlement Manual (National Judicial College: SJI–89–089)
Improving the Quality of Dispute Resolution (Ohio State University College of Law: SJI–93–277)
Comprehensive ADR Curriculum for Judges (American Bar Association: SJI–95–002)
Domestic Violence and Custody Mediation (American Bar Association: SJI–96–038)

Court Coordination

Bankruptcy Issues for State Trial Court Judges (American Bankruptcy Institute: SJI–91–027)
Intermediate Sanctions Handbook: Experiences and Tools for Policymakers (Center for Effective Public Policy: IAA–88–NIC–001)
Regional Conference Cookbook: A Practical Guide to Planning and Presenting a Regional Conference on State-Federal Judicial Relationships (U.S. Court of Appeals for the 9th Circuit: SJI–92–087)
Bankruptcy Issues and Domestic Relations Cases (American Bankruptcy Institute: SJI–96–175)

Court Management

Managing Trials Effectively: A Program for State Trial Judges (National Center for State Courts/National Judicial College: SJI–87–066/067, SJI–89–054/055, SJI–91–025/026)
Caseflow Management Principles and Practices (Institute for Court Management/National Center for State Courts: SJI–87–056)
A Manual for Workshops on Processing Felony Dispositions in Limited Jurisdiction Courts (National Center for State Courts: SJI–90–052)
Managerial Budgeting in the Courts; Performance Appraisal in the Courts; Managing Change in the Courts; Court Automation Design; Case Management for Trial Judges; Trial Court Performance Standards (Institute for Court Management/National Center for State Courts: SJI–91–043)
Strengthening Rural Courts of Limited Jurisdiction and Team Training for Judges and Clerks (Rural Justice Center: SJI–90–014, SJI–91–082)
Interbranch Relations Workshop (Ohio Judicial Conference: SJI–92–079)
Integrating Trial Management and Caseflow Management (Justice Management Institute: SJI–93–214)
Leading Organizational Change (California Administrative Office of the Courts: SJI–94–068)
Privacy Issues in Computerized Court Record Keeping: An Instructional Guide for Judges and Judicial Educators (National Judicial College: SJI–94–015)
Managing Mass Tort Cases (National Judicial College: SJI–94–141)
Employment Responsibilities of State Court Judges (National Judicial College: SJI–95–025)
Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)
Dealing with the Common Law Courts: A Model Curriculum for Judges and Court Staff (Institute for Court Management/National Center for State Courts: SJI–96–159)
Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041)

Courts and Communities

Reporting on the Courts and the Law (American Judicature Society: SJI–88–014)
Victim Rights and the Judiciary: A Training and Implementation Project (National Organization for Victim Assistance: SJI–89–083)
National Guardianship Monitoring Project: Trainer and Trainee's Manual (American Association of Retired Persons: SJI–91–013)
Access to Justice: The Impartial Jury and the Justice System and When Implementing the Court-Related Needs of Older People and Persons with Disabilities: An Instructional Guide (National Judicial College: SJI–91–054)
You Are the Court System: A Focus on Customer Service (Alaska Court System: SJI–94–048)
Serving the Public: A Curriculum for Court Employees (American Judicature Society: SJI–96–040)
Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence: A California Statewide Conference (California Administrative Office of the Courts: SJI–98–008)
Charting the Course of Public Trust and Confidence in Our Courts (Mid-Atlantic Association for Court Management: SJI–98–208)
Trial Court Judicial Leadership Program: Judges and Court Administrators Serving the Courts and Community (National Center for State Courts: SJI–98–268)
Public Trust and Confidence (Arizona Courts Association: SJI–99–063)

Diversity, Values, and Attitudes

Troubled Families, Troubled Judges (Brandeis University: SJI–89–071)
The Crucial Nature of Attitudes and Values in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–90–058)
Enhancing Diversity in the Court and Community (Institute for Court Management/National Center for State

Courts: SJI–91–043)
Cultural Diversity Awareness in Nebraska Courts from Native American Alternatives to Incarceration Project (Nebraska Urban Indian Health Coalition: SJI–93–028)
Race Fairness and Cultural Awareness Faculty Development Workshop (National Judicial College: SJI–93–063)
A Videotape Training Program in Ethics and Professional Conduct for Nonjudicial Court Personnel and The Ethics Fieldbook: Tool For Trainers (American Judicature Society: SJI–93–068)
Court Interpreter Training Course for Spanish Interpreters (International Institute of Buffalo: SJI–93–075)
Doing Justice: Improving Equality Before the Law Through Literature-Based Seminars for Judges and Court Personnel (Brandeis University: SJI–94–019)
Multi-Cultural Training for Judges and Court Personnel (St. Petersburg Junior College: SJI–95–006)
Ethical Standards for Judicial Settlement: Developing a Judicial Education Module (American Judicature Society: SJI–95–082)
Code of Ethics for the Court Employees of California (California Administrative Office of the Courts: SJI 95–245)
Workplace Sexual Harassment Awareness and Prevention (California Administrative Office of the Courts: SJI 96–089)
Just Us On Justice: A Dialogue on Diversity Issues Facing Virginia Courts (Virginia Supreme Court: SJI–96–150)
When Bias Compounds: Insuring Equal Treatment for Women of Color in the Courts (National Judicial Education Program: SJI–96–161)
When Judges Speak Up: Ethics, the Public, and the Media (American Judicature Society: SJI–96–152)

Family Violence and Gender-Related Violent Crime

National Judicial Response to Domestic Violence: Civil and Criminal Curricula (Family Violence Prevention Fund: SJI–87–061, SJI–89–070, SJI–91–055).
Domestic Violence: A Curriculum for Rural Courts (Rural Justice Center: SJI–88–081)
Judicial Training Materials on Spousal Support; Judicial Training Materials on Child Custody and Visitation (Women Judges' Fund for Justice: SJI–89–062)
Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault (National Judicial Education Program: SJI–92–003, SJI–98–133 [video curriculum])
Domestic Violence & Children: Resolving Custody and Visitation Disputes (Family Violence Prevention Fund: SJI–93–255)
Adjudicating Allegations of Child Sexual Abuse When Custody Is In Dispute (National Judicial Education Program: SJI–95–019)
Handling Cases of Elder Abuse: Interdisciplinary Curricula for Judges and Court Staff (American Bar Association: SJI–93–274)

Health and Science

Environmental Law Resource Handbook (University of New Mexico Institute for Public Law: SJI–92–162)
A Judge's Deskbook on the Basic Philosophies and Methods of Science: Model Curriculum (University of Nevada, Reno: SJI–97–030)

Judicial Education for Appellate Court Judges

Career Writing Program for Appellate Judges (American Academy of Judicial Education: SJI–88–086)
Civil and Criminal Procedural Innovations for Appellate Courts (National Center for State Courts: SJI–94–002)

Judicial Branch Education: Faculty and Program Development

The Leadership Institute in Judicial Education and *The Advanced Leadership Institute in Judicial Education* (University of Memphis: SJI–91–021)
''Faculty Development Instructional Program'' from *Curriculum Review* (National Judicial College: SJI–91–039)
Resource Manual and Training for Judicial Education Mentors (National Association of State Judicial Educators: SJI–95–233)
Institute for Faculty Excellence in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–96–042; University of Memphis: SJI–01–202)

Orientation, Mentoring, and Continuing Professional Education of Judges and Court Personnel

Legal Institute for Special and Limited Jurisdiction Judges (National Judicial College: SJI–89–043, SJI–91–040)
Pre-Bench Training for New Judges (American Judicature Society: SJI–90–028)
A Unified Orientation and Mentoring Program for New Judges of All Arizona Trial Courts (Arizona Supreme Court: SJI–90–078)
Court Organization and Structure (Institute for Court Management/National Center for State Courts: SJI–91–043)
Judicial Review of Administrative Agency Decisions (National Judicial College: SJI–91–080)
New Employee Orientation Facilitators Guide (Minnesota Supreme Court: SJI–92–155)
Magistrates Correspondence Course (Alaska Court System: SJI–92–156)
Computer-Assisted Instruction for Court Employees (Utah Administrative Office of the Courts: SJI–94–012)
Bench Trial Skills and Demeanor: An Interactive Manual (National Judicial College: SJI–94–058)
Ethical Issues in the Election of Judges (National Judicial College: SJI–94–142)
Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)
Innovative Approaches to Improving Competencies of General Jurisdiction Judges (National Judicial College: SJI–98–001)
Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041

Juveniles and Families in Court

Fundamental Skills Training Curriculum for Juvenile Probation Officers (National Council of Juvenile and Family Court Judges: SJI–90–017)
Child Support Across State Lines: The Uniform Interstate Family Support Act from Uniform Interstate Family Support Act: Development and Delivery of a Judicial Training Curriculum (ABA Center on Children and the Law: SJI–94–321)
Juvenile Justice at the Crossroads: Literature-Based Seminars for Judges, Court Personnel, and Community Leaders (Brandeis University: SJI–99–150)

Strategic and Futures Planning

Minding the Courts into the Twentieth Century (Michigan Judicial Institute: SJI–89–029)
An Approach to Long-Range Strategic Planning in the Courts (Center for Public Policy Studies: SJI–91–045)

Substance Abuse

Effective Treatment for Drug-Involved Offenders: A Review & Synthesis for Judges and Court Personnel (Education Development Center, Inc.: SJI–90–051)
Good Times, Bad Times: Drugs, Youth, and the Judiciary (Professional Development and Training Center, Inc.: SJI–91–095)
Gaining Momentum: A Model Curriculum for Drug Courts (Florida Office of the State Courts Administrator: SJI–94–291)
Judicial Response to Substance Abuse: Children, Adolescents, and Families (National Council of Juvenile and Family Court Judges: SJI–95–030)

BILLING CODE 6820–SC–P

Appendix F

STATE JUSTICE INSTITUTE
APPLICATION

1. APPLICANT
a. Applicant Name _____
_____
b. Organizational Unit _____
c. Street/P.O. Box _____
d. City _____
e. State _____ f. Zip Code _____
g. Phone Number _____
h. Fax Number _____
i. Web Site Address _____
j. Name & Phone Number of Contact Person _____
_____
k. Title _____
l. E-Mail Address _____

2. TYPE OF APPLICANT *(Circle appropriate letter)*
a. State court
b. National organization operating in conjunction with State court
c. National State court support organization
d. College or university
e. Other non-profit organization or agency
f. Individual
g. Corporation or partnership
h. Other unit of government
i. Other _____ *(specify)*
_____

3. PROPOSED START DATE _____

4. PROJECT DURATION (Months) _____

5. EMPLOYER IDENTIFICATION # _____

6. IF THIS APPLICATION HAS BEEN SUBMITTED TO OTHER FUNDING SOURCES, PLEASE PROVIDE THE FOLLOWING INFORMATION:
Source _____
Date Submitted _____
Amount Sought _____
Disposition (if any) or Current Status _____
_____

7. ENTITY TO RECEIVE FUNDS *(if different from above)*
a. Organizational Name _____
_____
b. Organizational Unit _____
c. Street/P.O. Box _____
d. City _____
e. State _____ f. Zip Code _____
g. Phone Number _____
h. Fax Number _____
i. Web Site Address _____
j. Name & Phone Number of Contact Person _____
_____
k. Title _____
l. E-Mail Address _____

8. a. AMOUNT REQUESTED FROM SJI $_____
b. AMOUNT OF MATCH
Cash match $_____
Non-cash match $_____
c. TOTAL MATCH $_____
d. TOTAL PROJECT COST $_____

9. TITLE OF PROPOSED PROJECT
_____

10. CONGRESSIONAL DISTRICT OF: _____ _____
Name of Representative; District Number — Project (if different than applicant): Name of Representative; District Number

11. CERTIFICATION
On behalf of the applicant, I hereby certify that to the best of my knowledge the information in this application is true and complete. I have read the attached assurances (Form D) and understand that if this application is approved for funding, the award will be subject to those assurances. I certify that the applicant will comply with the assurances if the application is approved, and that I am lawfully authorized to make these representations on behalf of the applicant.

_____ _____ _____
SIGNATURE OF RESPONSIBLE OFFICIAL OF APPLICANT — TITLE — DATE
(For applications from State and local courts, Form B, Certificate of State Approval, must be attached.)

FOR INSTITUTE USE ONLY

12. a. APPLICATION NUMBER _____ b. CONCEPT PAPER NUMBER _____ c. GRANT NUMBER _____	13. DATE RECEIVED	14. DATE OF ACTION

Form A 09/00

STATE JUSTICE INSTITUTE

INSTRUCTIONS FOR SJI APPLICATION FORM A

1. a-1 Legal **name of applicant** (court, entity or individual); **name of the organizational unit**, if any, that will conduct the project; complete **address** of applicant, including phone and fax numbers and web site address; and name, phone number, title, and e-mail address of a **contact person** who can provide further information about this application.

2. a **State court** includes all appellate, general jurisdiction, limited jurisdiction, and special jurisdiction courts, as well as all offices that are supervised by or report for administrative purposes to the chief or presiding justice or judge, or his or her designee.

2. b **National organizations operating in conjunction with State court** include national non-profit organizations controlled by, operating in conjunction with, and serving the State courts.

2. c **National state court organizations** include national non-profit organizations with the primary mission of supporting, serving, or educating judges and other personnel of the judicial branch of State government.

2. d **College or university** includes all institutions of higher education.

2. e **Other non-profit organization or agency** includes those non-profit organizations and private agencies not included in sub-paragraphs (b)-(d).

2. f **Individual** means a person not applying in conjunction with or on behalf of an entity identified in one of the other categories.

2. g **Corporation or partnership** includes for-profit and not-for-profit entities not falling within one of the other categories.

2. h **Other unit of government** includes any governmental agency, office, or organization that is not a State or local court.

3. **The proposed start date** of the project should be the earliest feasible date on which the applicant will be able to begin project activities following the date of award.

4. **Project duration** refers to the number of months the applicant estimates will be needed to complete all project tasks after the proposed start date.

5. **Employer Identification #** as assigned by the Internal Revenue Service.

6. If this application or an application requesting support for the same project or an essentially similar project has been previously submitted to another funding source (Federal or private), enter the name of the **source**, the **date** of the submission, the **amount** of funding sought, and the **disposition** (if any).

7. a-1 **The entity to receive funds** is the court or organization that will receive, administer, and account for any monies awarded. If the applicant is a State or local court, the entity to receive funds would be the State's Supreme Court or its agency or council designated in accordance with 42 U.S.C. 10705(b) (4). **Applicants should complete this block only if the entity that will receive the funds is different from the applicant.**

8. a Insert the **amount requested** from the State Justice Institute to conduct the project.

8. b The **amount of match** is the amount, if any, to be contributed to the project by the applicant, a unit of State or local government, a Federal agency, or private sources. See 42 U.S.C. 10705 (d).

Cash match refers to funds directly contributed by the applicant, a unit of State or local government, a Federal agency, or private sources to support the project.

Non-cash match refers to in-kind contributions by the applicant, a unit of State or local government, or private sources to support the project.

8. c **Total match** refers to the sum of the cash and in-kind contributions to the project.

8. d **Total project cost** represents the sum of the amount requested from the Institute and all match contributions to the project.

9. The **title of the proposed project** should reflect the objectives of the activities to be conducted.

10. Enter the name of the applicant's Congressional Representative and the number of the applicant's **Congressional district,** along with the number of the Congressional district(s) in which most of the project activities will take place and the name(s) of the Representatives from those districts. If the project activities are not site-specific (for example, a series of training workshops that will bring together participants from around the State, the country, or from a particular region), enter *Statewide*, *national*, or *regional*, as appropriate, in the space provided.

11. **Signature** and title of a duly authorized representative of the applicant and the **date** the application was signed.

(Form B)

STATE JUSTICE INSTITUTE

Certificate of State Approval

The _____
Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled _____

prepared by _____
Name of Applicant

approves its submission to the State Justice Institute, and

[ ] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[ ] designates _____
Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by the Institute pursuant to the application.

_____ _____
Signature *Date*

_____
Name

_____
Title

INSTRUCTIONS

The State Justice Act requires that:

Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts. 42 U.S.C. 10705(b)(4).

FORM B should be signed by the Chief Judge or Chief Justice of the State Supreme Court, or by the director of the designated agency or chair of the designated council.

The term "State Supreme Court' refers to the court of last resort of a State. "Designated agency or council" refers to the office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer and be accountable for those funds.

STATE JUSTICE INSTITUTE

PROJECT BUDGET

(TABULAR FORMAT)

Applicant: _____

Project Title _____

For Project Activity from _____ **to** _____

Total Amount Requested for Project from SJI $ _____

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel							
Fringe Benefits							
Consultant / Contractual							
Travel							
Equipment							
Supplies							
Telephone							
Postage							
Printing / Photocopying							
Audit							
Other (specify)							
Direct Costs							
Indirect Costs							
Total							

Remarks:

Form C 5/95 *(Instructions on reverse side)*

91853

STATE JUSTICE INSTITUTE

PAGE _____ OF _____

PROJECT BUDGET

(SPEADSHEET FORMAT)

Applicant: _____

Project Title _____

For Project Activity from _____ **to** _____

Total Amount Requested for Project from SJI $ _____

(See instruction regarding column headings)

ITEM							
Personnel							
Fringe Benefits							
Consultant / Contractual							
Travel							
Equipment							
Supplies							
Telephone							
Postage							
Printing / Photocopying							
Audit							
Other (specify)							
Direct Costs							
Indirect Costs (%)							
SJI Total							
STATE FUNDS							
FEDERAL FUNDS							
APPLICANT FUNDS							
OTHER FUNDS							
IN-KIND FUNDS							
Total							

Form C1 5/95 *(Instructions on reverse side)*

91854

Application Budget Instructions

Applicants may submit the proposed project budget in either the tabular format of Form C or a spreadsheet format similar to Form C1. Applicants requesting more than $100,000 are encouraged to use the spreadsheet format. If the proposed project period is for more than 12 months, separate totals should be submitted for each succeeding 12-month period or portion thereof beyond month 12.

In addition to Form C or C1, applicants must provide a detailed budget narrative that explains the basis for the estimates in each budget category (see Guideline section VI.A.4.). If the applicant is requesting indirect costs and has an indirect cost rate that has been approved by a Federal agency, the basis for that rate, together with a copy of the letter or other official document stating that it has been approved, should be attached. Recoverable indirect costs are limited to no more than 75% of personnel and fringe benefit costs.

If matching funds from other sources are being sought, the source, current status of the request, and anticipated decision date must be provided.

COLUMN HEADINGS: For Budget Form C1, the columns should be labeled consecutively by task, e.g., TASK #1, TASK #2, etc. At the end of each 12-month period or portion thereof beyond month 12, the following 4 columns must be included: SJI FUNDS; MATCH; OTHER; TOTAL. Entries in these columns should include the line-item totals by source of funding per the column headings.

STATE JUSTICE INSTITUTE
ASSURANCES

The applicant hereby assures and certifies that it possesses legal authority to apply for the award, and that if funds are awarded by the State Justice Institute pursuant to this application, it will comply with all applicable provisions of law and the regulations, policies, guidelines and requirements of the Institute as they relate to the acceptance and use of Institute funds pursuant to this application. The applicant further assures and certifies with respect to this application, that:

1. No person will, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds, and that the applicant will immediately take any measures necessary to effectuate this assurance.

2. In accordance with 42 U.S.C. 10706(a), funds awarded to the applicant by the Institute will not be used, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by Federal, State or local agencies, or to influence the passage or defeat of any legislation or constitutional amendment by any Federal, State or local legislative body.

3. In accordance with 42 U.S.C. 10706(a) and 10707(c):

   a. It will not contribute or make available Institute funds, project personnel, or equipment to any political party or association, to the campaign of any candidate for public or party office, or to influence the passage or defeat of any ballot measure, initiative, or referendum;

   b. No officer or employee of the applicant will intentionally identify the Institute or the applicant with any partisan or nonpartisan political activity or the campaign of any candidate for public or party office; and,

   c. No officer or employee of the applicant will engage in partisan political activity while engaged in work supported in whole or in part by the Institute.

4. In accordance with 42 U.S.C. 10706(b), no funds awarded by the Institute will be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

5. In accordance with 42 U.S.C. 10706(d), no funds awarded by the Institute will be used to supplant State or local funds supporting a program or activity; to construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or to solely purchase equipment for a court system.

6. It will provide for an annual fiscal audit of the project.

7. It will give the Institute, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.

8. In accordance with 42 U.S.C. 10708 (b) (as amended), research or statistical information that is furnished during the course of the project and that is identifiable to any specific individual, shall not be used or revealed for any purpose other than the purpose for which it was obtained. Such information and copies thereof shall be immune from legal process, and shall not be offered as evidence or used for any purpose in any action suit, or other judicial, legislative, or administrative proceeding without the consent of the person who furnished the information.

9. All research involving human subjects will be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

10. All products prepared as the result of the project will be originally-developed material unless otherwise specifically provided for in the award documents, and that material not originally developed that is included in such projects must by properly identified, whether the material is in a verbatim or extensive paraphrase format.

11. No funds will be obligated for publication or reproduction of a final product developed with Institute funds without the written approval of the Institute. The recipient will submit a final draft of each such product to the Institute for review and approval prior to submitting that product for publication or reproduction.

12. The following statement will be prominently displayed on all products prepared as a result of the project:
    This [document, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. Points of view expressed herein are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.

13. THE "SJI" logo will appear on the front cover of a written product or in the opening frames of a video production produced with SJI funds, unless another placement is approved in writing by the Institute.

14. Except as otherwise provided in the terms and conditions of an Institute award, the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

15. It will submit quarterly progress and financial reports within 30 days of the close of each calendar quarter during the funding period (that is, no later than January 30, April 30, July 30, and October 30); that progress reports will include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period; and that financial reports will contain the information requested on the financial report form included in the award documents.

16. At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the court, organization or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

17. The person signing the application is authorized to do so on behalf of the applicant and to obligate the applicant to comply with the assurances enumerated above.

DISCLOSURE OF LOBBYING ACTIVITIES

The State Justice Institute Act prohibits grantees from using funds awarded by the Institute to directly or indirectly influence the passage or defeat of any legislation by Federal, State of local legislative bodies. 42 U.S.C. 10706 (a). It also is the policy of the Institute to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner.

Consistent with this policy and the provisions of 42 U.S.C. 10706 (a), the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application. As a means of implementing that prohibition, SJI requires organizations submitting applications to the Institute to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. This form must be submitted with your application.

Name of Applicant: _____

Title of Application: _____

_____

☐ **Yes** ☐ **No** **Has the applicant (or an entity that is part of the same organization as the applicant) directly or indirectly advocated a position before Congress on any issue within the past five years?**

SPECIFIC SUBJECTS OF LOBBYING EFFORTS

If you answered **YES** above, please list the specific subjects on which your organization (or another entity that is part of your organization) has directly or indirectly advocated a position before Congress within the past five years. If necessary, you may continue on the back of this form or on an attached sheet.

Subject	**Year**
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

STATEMENT OF VERIFICATION

I declare under penalty of perjury that the information contained in this disclosure statement is correct and that I am authorized to make this verification on behalf of the applicant.

_____

Signature **Name (Typed)**

_____

Title **Date**

Appendix G

(Form E)

STATE JUSTICE INSTITUTE

LINE-ITEM BUDGET FORM

For Judicial Branch Education Technical Assistance and Technical Assistance Grant Requests*

Category	SJI Funds	Cash Match	In-Kind Match
Personnel	$_____	$_____	$_____
Fringe Benefits	$_____	$_____	$_____
Consultant/Contractual	$_____	$_____	$_____
Travel	$_____	$_____	$_____
Equipment	$_____	$_____	$_____
Supplies	$_____	$_____	$_____
Telephone	$_____	$_____	$_____
Postage	$_____	$_____	$_____
Printing/Photocopying	$_____	$_____	$_____
Audit	$_____	$_____	$_____
Other	$_____	$_____	$_____
Indirect Costs (%)	$_____	$_____	$_____
TOTAL	$_____	$_____	$_____

PROJECT TOTAL $_____

Financial assistance has been or will be sought for this project from the following other sources:

* Judicial Branch Education Technical Assistance Grant requests and Technical Assistance Grant requests should also include a budget narrative explaining the basis for each line-item listed above.

Appendix H

SJI Scholarship Application

This application does not serve as a registration for the course. Please contact the education provider.

APPLICANT INFORMATION:

1. Applicant Name: _____ (Last) _____ (First) _____ (MI)
2. Position: _____
3. Name of Court: _____
4. Address: _____ Street/P.O. Box
   _____ City _____ State _____ Zip Code
5. Telephone No. _____
6. Congressional District: _____

PROGRAM INFORMATION:

7. Course Name: _____
8. Course Dates: _____
9. Course Provider: _____
10. Location Offered: _____

ESTIMATED EXPENSES:

(Please note, scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)

Tuition: $ _____ Transportation: $ _____

(Airfare, train fare, or if you plan to drive, an amount equal to the approximate distance and mileage rate.)

Amount Requested: $ _____

Are you seeking/have you received a scholarship for this course from another source?

❑ Yes ❑ No. If so, please specify the source(s) and amounts(s) _____

_____.

Form S1 (9/98)

SJI SCHOLARSHIP APPLICATION PAGE 2

ADDITIONAL INFORMATION:

Please attach a current resume or professional summary, and provide the information requested below.
(You may attach additional pages if necessary.)

1. Please describe your need to acquire the skills and knowledge taught in this course.

2. Please describe how will taking this course benefit you, your court, and the State's courts generally.

3. Is there an educational program currently available through your State on this topic?

4. Are State or local funds available to support your attendance at the proposed course? If so, what amount(s) will be provided?

5. How long have you served as a judge or court manager? _____

6. How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?

❑ 0–1 year ❑ 2–4 years ❑ 5–7 years ❑ 8–10 years ❑ 11+ years

7. What continuing professional education programs have you attended in the past year? Please indicate which were mandatory (M) and which were non-mandatory (V).

STATEMENT OF APPLICANT'S COMMITMENT

If a scholarship is awarded, I will share the skills and knowledge I have gained with my court colleagues locally, and if possible, Statewide, and I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.

_____ Signature

_____ Date

Please return this form and Form S-2 to:

Scholarship Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314

SJI Scholarship Application

Concurrence

I, _____,
Name of Chief Justice (or Chief Justice's Designee)

have reviewed the application for a scholarship to attend the program entitled

_____,

prepared by _____.
Name of Applicant

and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; public funds are not available to enable the applicant to attend this course; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial branch education.

_____
Signature

_____
Name

_____
Title

_____
Date

Form S2 (9/98)

[FR Doc. 02–23493 Filed 9–17–02; 8:45 am]
BILLING CODE 6820–SC–C

Federal Register

Wednesday,
September 18, 2002

Part III

Department of State

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses; Notice

DEPARTMENT OF STATE

[Public Notice 4102]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the one hundred letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: August 14, 2002.

William J. Lowell,

Director, Office of Defense Trade Controls, Department of State.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives

April 11, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act, and the Administration is treating authorization for the requested re-export consistent with these provisions.

The transaction described in the attached certification involves export of unclassified technical data for an Air Traffic Control System for the Indian Air Force to include Air Traffic Management software and Primary Surveillance Radars (PSR) to include mobilization, frequency agility and ECCM features.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 174–01

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Consistent with section 36(c) of the Arms Export Control Act and Title IX of Public Law 106–79, I am transmitting, herewith, certification of proposed licenses for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in Section 36(c) of the Arms Export Control Act, and the Administration is treating authorization for the requested re-export consistent with these provisions.

The transactions described in the attached certification involves the transfer of: (1) Six (6) Magnetrons for use in the ground-based Flycatcher radar to the Indian Army; (2) unclassified technical data for UH–1H CUH and Huey II helicopters and related upgrades to the Government of India; (3) two (2) VFT displays and rack adapters for analyzing the radio frequency spectrum in the audio range to Bharat Electronics, Ltd.; (4) unclassified technical data for the Model 76 Periscope to upgrade Kilo-class submarines to the Indian Navy; (5) Generation III Night Vision Sights and Aiming Devices for demonstration to the Indian Ministry of Defense and/or other Indian Government Agencies; (6) unclassified technical data on the Atlas IIAS, Atlas III and Atlas V space launch vehicles in support of marketing, proposal, and contract negotiations to the ISRO Satellite Center; (7) unclassified technical data for marketing and technical discussions on the SH–2G helicopter to the Indian Navy.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 03–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to sections 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Finland of technical data, defense services and defense articles for the manufacture of eighty additional LAV–30 turrets for use in the BMP–1, BMP–2 and XA–125 fighting vehicles for end-use by the Governments of Finland, Sweden, Switzerland, Belgium, Denmark, France, Germany, Italy, the Netherlands, Norway, Spain, the United Kingdom and Poland.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 060–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for C–130 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 61–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for C–130 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 62–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to ection 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of a gear box assembly for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 63–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of seals for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 72–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of valves for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 75–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of drive shafts for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 76–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of pumps for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 77–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of plate assemblies for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 78–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

June 20, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of 450 Kg of IAW approved stainless steel tape, to the National Radio Telecommunications Corp. of Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 81–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of AN/GRC–103 (V) 1,2,3 radio set components to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 35–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same

requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of turbine blades for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 64–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the demonstration of explosives and narcotics trace detection equipment to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 66–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of hub assemblies for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 67–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of valves, rods and retainers for C–130 and F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 68–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 69–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related

provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for F–16 aircraft and related F100 engines and C–130 aircraft and related T–56 engines to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 71–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of tube assemblies for C–130 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 73–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of technical data for F100 engine models to the Government of Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 74–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of parts, support equipment and defense services for F100 aircraft engines for F–16 aircraft to the Pakistan Air Force.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 80–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of components for the overhaul and repair of an AN/PRC–7 radio set, including crystals, micro-switches contacts and valves, to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 82–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent

with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves amendments to an existing distribution agreement to add India to the approved sales/distribution territory for minor components and parts for helicopter airframes, and to extend the agreement by one year.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 92–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves brokering activities to assist in the marketing, and eventual sale, of twelve (12) Argentine IA 63 Pampa jet trainer aircraft to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 93–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of four (4) amplifier assemblies for use in existing Sea King helicopters to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 94–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts (9 seat balls and 12 nuts) for maintenance of the S–61 helicopter to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 95–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of unclassified technical data in the form of briefing and marketing brochures related to the marketing of the HMPT series of transmissions for infantry fighting vehicles to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 100–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Germany and Turkey.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture, test and delivery of four AN/TPX–54 Interrogators for end-use by Turkey.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. 111–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 18, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of nineteen (19) target drones, spare parts and associated equipment for ground based defensive anti-aircraft artillery practice to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 129–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of augmentor liners for PW F100 engines to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 65–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of riot control gear consisting of 400 grenade launchers and 3300 CS gas grenades, and 5000 rounds of .32 caliber ammunition to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 83–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of bomb suppression blankets/safety circles to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 85–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of hydraulic fittings for use in the engine of the Indian Light Combat Aircraft.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 97–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the re-export of one coupled cavity traveling wave tube from Poland to India for integration into a surveillance radar being developed indigenously for air traffic control purposes.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 99–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of three hundred (300) satellite heaters for integration into the INSAT3a, INSAT3e, GSAT–2, and GSAT–3 satellites (75 heaters for each satellite) to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 101–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of in flight safety equipment, including oxygen masks, face pieces and microphones to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 104–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the

applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 105–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of strap assemblies for C–130 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 106–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for F–16 aircraft, including roller uplocks and acutators, to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 107–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of recovery sequencers for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 108–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of inertial navigation systems and associated hardware for F–16 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 109–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of parts and components for the overhaul of C–130, T–37 and UH–1H aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 110–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of two (2) Indian-owned engineering test sets, including miscellaneous components, spares, and parts for the Light Combat Aircraft Program that had been sent to the U.S. for testing. Their re-export to India was prevented by the imposition of sanctions in 1998.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 112–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves a manufacturing license agreement for the transfer of technical information, services and hardware to allow for the in-country manufacture of a flight control system for the Indian Light Combat Aircraft.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 113–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of fifty-one (51) telescope housing castings and seventy-eight (78) rear cover housing castings for use in hand-held thermal imagers to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 116–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export fifteen (15) cathodes for incorporation into travelling wave tubes for ultimate use in the ship-borne ELM 2238 aerial surveillance and threat alert radar system to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 122–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India and Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India and Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles

or defense services to India and Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the U.S. employment of Indian and Pakistani nationals to work with commercial communications satellite programs.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 125–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of unclassified technical data in the form of discussions and system description literature related to the marketing of the AR–900 Electronic Support Measures/Direction-Finding (ESM/DF) System to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 130–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary export for marketing purposes of one (1) Survival Tracking and Recovery (STAR) system, consisting of the URX 3000 and URX–4000 GPS survival radios, antenna, mounting base and installation kit to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 131–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of four (4) synchros for incorporation into the DA08 Naval Surveillance Radar to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 132–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of eight (8) Yttrium Iron Garnet (YIG) Oscillators and six (6) filters for use in a measurement set for spectrum analysis and study of narrow band signals to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 134–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of one (1) 70511 Dark Invader ''Owl'' infrared pocketscope with a 100-milliwatt infrared illuminator to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 135–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary export of 108 Generation II night vision tubes and accessories for demonstrations and marketing to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 136–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of defense services and technical data to support the manufacture, assembly and supply of parts for the AH–1S helicopters for end-use by the Japan Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 137–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement with Japan.

The transaction described in the attached certification involves the transfer of manufacturing data, assistance and defense articles to Japan for the manufacture, assembly and test of two (2) Mk 45 Mod 4 Naval Gun Mounts for end-use by the Government of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 139–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to sections 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Poland of technical data, defense services and defense articles for the manufacture of one hundred twenty LAV–25 turrets for use in armored personnel carriers for end-use by the Governments of Australia and Poland.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 143–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the employment in the United States of an Indian national for work on inertial measurement units.

The United States Government is prepared to authorize the export of these items having taken into account political, military,

economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 144–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of three T–400 training aircraft, support equipment and support services for end-use in Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 149–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement with Canada.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture of 232 Night Observation Device, Long Range Mid-life Improvement Program (NODLR–MIP) modification kits. The NODLR–MIP modification kits will be for end-use in Canada.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 150–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of six (6) T–6A–1 aircraft, support equipment and support services for end-use by the NATO Flying Training in Canada (NFTC) Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 157–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to sections 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement with Italy that also involves the export of defense articles and defense services in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of technical data, defense services, and defense articles for the manufacture of the C–27J Medium Tactical Transport Aircraft in Italy for sales to Italy and Greece.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 158–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of defense services and technical data to support the manufacture and sale of JFC78–4 hydro-mechanical engine fuel controls for the GE T–700 engines on Seahawk and Blackhawk helicopters for end-use by the Government of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 159–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services to the United Kingdom for the manufacture of components for the Wide Area Munition and the Area Defence Weapon for end-use by the United States Army and the United Kingdom's Ministry of Defence.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 160–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 19, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of tooling and equipment, materials and technical data

and services related to the manufacture of various F–16 aircraft components in Greece, Belgium, France, Israel, South Korea, the Netherlands, and the United Kingdom for end-use in the United States and Greece.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 161–02

The Honorable Henry J. Hyde, Chairman, Committee on International Relations, House of Representatives.

July 24, 2002.

Dear Mr. Chairman: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves fifty (50) fractional horsepower DC motors for use in AN/PRC–149 and AN/URT–140 person locator beacons to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 96–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) & (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and technical data to the United Kingdom to support the development and production of the XM777/M777 LW155mm Howitzer for ultimate use by the U.S. Army and U.S. Marine Corps.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 138–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) & (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and defense articles to the United Kingdom to support the System Demonstration and Development Phase of the Joint Strike Fighter Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 151–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of technical data and defense services to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of unclassified technical data concerning aircraft wheel and brake systems associated with the employment in the United States of an Indian national.

The United States Government is prepared to authorize these defense services having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 166–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services to Japan for the production, repair and sale of AN/ARC–187(V) UHF Airborne Line-of-Sight Satellite Communications Radio Sets for end-use by the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 186–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a

proposed manufacturing license agreement (MLA) with Japan.

The transaction described in the attached certification involves the transfer of technical data and assistance to Japan for the manufacture, logistical support and delivery of AN/APX–100(V) Airborne Transponder and derivative model RCVR–XMTR–SIF for end-use by the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 188–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to South Korea of technical data and defense services related to the overhaul of J79 and J85 gas turbine aircraft engines in South Korea. Additionally, the agreement provides for the overhaul of J79 and J85 engines from Bahrain, Ecuador, Kenya, Mexico, Saudi Arabia, Thailand and Yemen.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 189–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 24, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of technical data regarding the UH–1H helicopter to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 191–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of eighteen (18) traveling wave tubes for use in an airborne electronic counter-measures (ECM) system to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 007–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary export for sales demonstration purposes of one model ALS40 airborne laser scanner, with integrated photogrametric equipment and inertial measurement unit, to India.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 38–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and technical data to support the design and manufacture of Joint Strike Fighter (JSF) F135–PW–200/–400/–600 gas turbine engine exhaust nozzle parts and components in The Netherlands, for end-use in the U.S.

The United States Government is prepared to license the export of these items having taken into account political, military,

economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 141–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the sale of the iPSTAR–1 commercial communications satellite to Thailand and its launch from Kourou, French Guiana.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 142–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of technical data and defense services to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of three (3) throttle grips for use in the Light Combat Aircraft (LCA) to India.

The United States Government is prepared to authorize these defense services having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 152–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of technical data and defense services to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary export of a Light Detention and Ranging System (LIDAR) with inertial-navigation unit for installation in a SuperKing Air B–200 aircraft engaged in a limited-term disaster management project to India.

The United States Government is prepared to authorize these defense services having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 154–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of technical data and defense services to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of unclassified technical data related to the marketing of the AN/FPS–117 long-range, solid-state, three-dimensional radar to India.

The United States Government is prepared to authorize these defense services having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 165–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of technical data and defense services to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves a technical assistance agreement for the U.S. employment of an Indian national to work with technical data on the Comanche Machine Gun Turret Control Program, CLAWS Program, and Automatic Gun System Program.

The United States Government is prepared to authorize these defense services having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 176–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of valves for C–130 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 193–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of oxygen tubes for C–130 aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 194–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for the AN/TPS–43(G) radar to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 196–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of parts kits for T–37 trainer aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 197–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of ALQ–131 electronic countermeasures system components to Pakistan.

The United States Government is prepared to authorize the export of these items having

taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 198–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of fuel control units for the T–53 engine used in UH–1H aircraft to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 199–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 25, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary import into the United States for repair, and subsequent export to Pakistan of ALQ–131 electronic countermeasures components.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 200–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification concerns exports of technical data and defense services for cooperation in the co-development of Japan's J–1 space launch vehicle program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 019–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to sections 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export to Canada of technical data, defense services and defense articles for the manufacture of M-16 assault rifles for use by the Governments of Canada, Denmark, the Netherlands, Czech Republic, Poland, United Kingdom, France, Belgium, Spain, Italy, Portugal, Germany, Luxembourg, Norway, Iceland, Australia, New Zealand, Hungary, Greece, Turkey, Lithuania, Estonia, Latvia, Finland, Sweden, Austria, Romania and Bulgaria.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 056–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the retransfer of spare parts for the RS–710 infrared line scanner to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 103–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to India.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on India in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to India pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the temporary re-export from Switzerland of one LN–200 inertial measuring unit integrated in the ADS40 aerial digital camera.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 114–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services and defense articles to Turkey to support the integration of the Standard Vehicle Mounted Launcher and the Air-to-Air Stinger Launcher for end-use by the Turkish Ministry of National Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 128–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia related to the launch of commercial satellites from Kazakhstan utilizing the Proton Space Launch Vehicle beyond those specified in DTC 182–02 dated June 27, 2002; DTC 124–02 dated May 22, 2002; DTC 022–02 dated May 1, 2002; DTC 038–01 dated April 30, 2001; DTC 034–01 dated March 1, 2001; DTC 014–01 dated March 7, 2000; DTC 098–99 dated August 5, 1999; and DTC 039–98 dated March 19, 1998.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 147–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia, Ukraine and Norway related to the launch of commercial satellites from the Pacific Ocean utilizing a modified oil platform beyond those specified in DTC 183–02 dated June 27, 2002; DTC 123–02 dated May 22, 2002; DTC 023–02 dated May 1, 2002; DTC 048–01 dated April 30, 2001; DTC 026–00 dated May 19, 2000; DTC 124–99 dated November 10, 1999; DTC 006–99 dated April 16, 1999; and DTC 016–97 dated July 25, 1997.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 148–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of technical data regarding the M113A2 armored personnel carrier to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 190–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the

same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of spare parts for the rebuild of M113 armored personnel carriers to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 192–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to Section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of J–69 aircraft engines and J–69 engine fuel control units to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 201–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 9001(e) of Public Law 106–79 and consistent with section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles to Pakistan.

The President made a determination in a manner consistent with Title IX of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106–79) to waive sanctions on Pakistan in connection with the Glenn Amendment and related provisions, as reported to you by separate letter. Under Title IX, the issuance of a license for the export of defense articles or defense services to Pakistan pursuant to the waiver authority of that Title is subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act and the Administration is treating authorization for the requested export consistent with these provisions.

The transaction described in the attached certification involves the export of components for armored combat vehicles to Pakistan.

The United States Government is prepared to authorize the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 203–02

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

July 26, 2002.

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles to Turkey to support the manufacture and assembly of four (4) 737 Airborne Early Warning & Control (AEW&C) Systems with associated spares and support equipment, plus an option for two (2) additional systems for the Government of Turkey.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 204–02

[FR Doc. 02–21330 Filed 9–17–02; 8:45 am]

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Federal Register

Wednesday,
September 18, 2002

Part IV

Department of Agriculture

Federal Crop Insurance Corporation

7 CFR Parts 400, 407 and 457
General Administrative Regulations, Subpart T—Federal Crop Insurance Reform, Insurance Implementation, Regulations for the 1999 and Subsequent Reinsurance Years; Group Risk Plan of Insurance Regulations for the 2001 and Succeeding Crop Years; and the Common Crop Insurance Regulations, Basic Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 407 and 457

RIN 0563–AB85

General Administrative Regulations, Subpart T—Federal Crop Insurance Reform, Insurance Implementation, Regulations for the 1999 and Subsequent Reinsurance Years; Group Risk Plan of Insurance Regulations for the 2001 and Succeeding Crop Years; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend subpart T in the General Administrative Regulations (7 CFR part 400, subpart T); the Group Risk Plan of Insurance Regulations (7 CFR part 407); and the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457). The intended effect of this action is to make revisions mandated by the Federal Crop Insurance Act (Act), as amended by the Agricultural Risk Protection Act of 2000 (ARPA), and to make other changes and clarify existing policy provisions to better meet the needs of the insured.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business October 18, 2002 and will be considered when the rule is to be made final. Comments on the information collection requirements must be received on or before November 18, 2002.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676. Comments titled ''Basic Provisions'' may also be sent via the Internet to *DirectorPDD@rm.fcic.usda.gov.* A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the Cost-Benefit Analysis, contact Janice Nuckolls, Insurance Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that changes in the rule will have positive potential benefits for insureds who do not engage in program abuse. The liberalized prevented planting provisions will be beneficial to two groups of producers. One group is made up of those who, under current provisions, would forgo the full prevented planting payment on a first crop in order to plant a second crop. Under the proposed rule, such producers will receive a reduced prevented planting payment to at least partially compensate for pre-planting costs incurred on the first crop. The second group will be made up of producers who change planting decisions and plant a second crop that would not have been planted under current provisions. In taking this action, these individuals will reveal that they perceive a positive economic benefit relative to the options offered them by current provisions. Effects of the prevented planting provisions on total program-wide prevented planting payments and the cost of insurance are indefinite. Whether those payments and costs increase or decrease and the magnitude of any such change will depend on the proportion of reduced prevented planting payments made under the proposed rule that are taken by producers who would have taken a full versus zero payment under current provisions. Double insurance provisions of the proposed rule reduce the incentive for program abuse that is perceived to have occurred under current provisions. New sanctions for failure to report required information or for misreporting material information should also reduce program abuse. Over time, if program abuse is decreased, premium reductions may result. Such reductions would be beneficial to producers who do not abuse the program. However, because the amount of abuse that currently occurs cannot be measured with existing data, immediate rate adjustments are not appropriate. Rather, such adjustments should be made when adequate loss experience is available to support actuarial calculations that satisfy appropriate credibility standards.

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection and record keeping requirements included in the proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send your written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for RMA, Washington, DC 20503. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are soliciting comments from the public concerning our proposed information collection and record keeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission responses.)

The collections of information for this rule revise the Multiple Peril Crop Insurance Collections of Information 0563–0053, which expire February 28, 2005.

Title: Multiple Peril Crop Insurance (Common Crop Insurance Regulations, Basic Provisions and GRP).

Abstract: This rule amends the existing General Administrative Regulations, 7 CFR part 400, subpart T—Federal Crop Insurance Reform, Insurance Implementation; Group Risk Plan of Insurance Regulations, 7 CFR part 407, and the Common Crop Insurance Regulations, 7 CFR part 457.

Subpart T is revised to remove reference to the term ''limited coverage'' and to revise the definition of ''approved yield'' in conformance with the amendments to the Act.

The Group Risk Plan of Insurance Regulations are revised to: (1) Clarify which policy is in effect when a producer inadvertently has more than one policy in effect; (2) clarify that procedures and handbooks established by FCIC will be used to administer the policy and if there is a conflict between these documents and the terms of the policy, Act or regulations, the terms of the policy, Act or regulations will control; (3) add and revise definitions and provisions for clarification and as needed to implement the amendments to the Act; (4) add new sanctions for misreporting acreage information; (5) add provisions to require insurance be under one policy when the same people are involved in multiple farming operations or are in the same family or household; (6) consolidate the provisions in the policy regarding the effect of failure to timely pay premium or administrative fees, allow voidance to the beginning of the crop year when a person fails to make payments under the terms of a payment agreement, and specify that premium must be paid by the termination date even if a claim is outstanding, and that failure to do so will result in termination and ineligibility in accordance with the terms of the policy; (7) allow a written agreement to remain in place for up to four years unless conditions under which it was issued change; (8) clarify that any USDA employee has access to the farm or records for the purpose of compliance efforts; (9) add provisions allowing review of loss determinations when there is an issue of whether or not ''good farming practices'' were followed; (10) delete provisions that allowed arbitration to resolve disputes between insurance providers and producers; (11) clarify provisions regarding collection of information on the application and require social security numbers for all persons having a substantial beneficial interest in the insured crop; (12) clarify that contract changes are effective when filed with the Office of the Federal Register and that they will be published on the RMA website; and (13) implement revisions to the Act regarding indemnities and premiums for multiple crops planted on the same acreage in a crop year.

The Common Crop Insurance Regulations are revised to: (1) Clarify which policy is in effect when a producer inadvertently has more than one policy in effect; (2) remove ''good faith and reliance on misrepresentation'' provisions. (3) Clarify that procedures and handbooks established by FCIC will be used to administer the policy and if there is a conflict between these documents and the terms of the policy, Act or regulations, the terms of the policy, Act or regulations will control; (4) add definitions and provisions needed to insure acreage grown under an organic farming practice; (5) add definitions and provisions needed to implement provisions contained in the Federal Crop Insurance Act regarding multiple crops on the same acreage in the same crop year; (6) clarify provisions regarding collection of information on the application and require social security numbers for all persons having a substantial beneficial interest in the insured crop; (7) specify that premium must be paid by the termination date even if a claim is outstanding, and that failure to do so will result in termination and ineligibility in accordance with the terms of the policy; (8) allow retroactive policy voidance when a person fails to make payments under the terms of a payment agreement; (9) add a requirement to provide supporting records of past production history when a claim is filed, and add sanctions when actual production history (APH) information has been misreported and results in a yield more than five percent different than the correct yield; (10) allow revision when reported yields are inconsistent with APH yields for other units or that are based in whole or in part on an amount of acreage less than 25 percent of the current acreage in the unit; (11) delete provisions allowing liberalization of policy provisions; (12) prohibit revision of prevented planting acreage reports after submission unless approved by the insurance provider; (13) add sanctions for misreporting information on the acreage report; (14) specify premium must be paid by the termination date even if a claim is outstanding, and that failure to do so will result in termination and ineligibility in accordance with the terms of the policy; (15) specify that acreage that has not been planted and harvested in one of the last three crop years will not be insured unless it was not planted in at least two of the previous three crop years to comply with a USDA program; (16) remove provision that allows insurance on acreage that has been prevented from being planted in the last 3 crop years; (17) add provisions to require insurance be under one policy when the same people are involved in multiple farming operations or are in the same family or household; (18) prohibit insurance for damage resulting from water contained or released on any acreage on which there is a water easement; (19) add provisions to allow coverage for losses resulting from failure of irrigation facilities if failure is due to an insured cause; (20) require earlier notice of prevented planting; (21) restrict the amount of a prevented planting payment when acreage is hayed, grazed or otherwise harvested for animal feed prior to the calendar date for the end of the insurance period; (22) prohibit prevented planting coverage for any acreage on which any pasture or other forage crop is in place on the final planting date; (23) add provisions to allow a producer who has not grown a crop in a certain county and who obtains acreage in that county after the sales closing date to submit an intended acreage report within 10 days after acreage is obtained; (24) add provisions that will not allow a prevented planting benefit when a producer does not have remaining eligible acreage for the insured crop or remaining eligible non-irrigated acreage of another crop; (25) allow a written agreement to remain in place for more than one year unless conditions under which it was issued change, and require that the producer have at least four years of supporting records when requesting insurance for a crop, type, variety or practice not insurable in a county;

(26) add provisions allowing review of loss determinations when there is an issue of whether or not ''good farming practices'' were followed; (27) delete provisions that allowed arbitration to resolve disputes between insurance providers and producers; (28) specify that, if the producer received compensation from another party for a loss, the amount received from them, not to exceed the amount of indemnity, must be repaid to the insurance provider; (29) allow separate irrigated and non-irrigated units when borders can be discerned by changes in plant populations; (30) allow unit division for acreage grown under an organic farming practice; and (31) require producers to elect substitution of low APH yields on or before the sales closing date.

Purpose: The purpose of this proposed rule is to add provisions mandated by the Agricultural Risk Protection Act of 2000, and make other changes and clarify existing policy provisions to better meet the needs of the insured and the insurance company.

Burden statement: The information that FCIC collects will be used in offering crop insurance coverage, determining program eligibility, establishing a production guarantee, calculating losses qualifying for a payment, combating fraud, waste, and abuse, etc. The burden hours have increased because FCIC assumes more producers will obtain crop insurance

coverage to help protect their investments against risk and producers will be required to provide more documentation and records and notify the insurance provider more often.

Estimate of Burden: We estimate that it will take producers, a loss adjuster, and an insurance agent an average of 1 hour to provide the required information.

Respondents: Producers and insurance providers including their agents.

Estimated annual number of respondents: 1,310,527.

Estimated annual number of responses per respondent: 2.9.

Estimated annual number of responses: 3,818,865.

Estimated total annual burden on respondents: The total public burden for this proposed rule is estimated at 1,406,285 hours.

Record keeping requirements: FCIC requires production records to be kept for all years of the producer's actual production history. However, these records are retained as part of the normal business practice and FCIC's requirement does not place additional burden on insured producers. Therefore, FCIC is not estimating burden related to this record keeping requirement.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any action taken by FCIC under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the General Administrative Regulations, subpart T-Federal Crop Insurance Reform, Insurance Implementation, the Group Risk Plan of Insurance Regulations, and the Common Crop Insurance Regulations; Basic Provisions to implement program changes mandated by the Act, as amended by ARPA, and make other changes and clarify existing policy provisions to better meet the needs of the insured. Five significant changes are addressed by this rule: (1) Provisions are added to implement sections of ARPA that place limits on multiple insurance benefits in a single crop year. The provisions provide for insurance payment reductions when two crops are planted on the same acreage in the same crop year and both sustain insurable losses; (2) Prevented planting provisions are modified in accordance with the provisions of ARPA to allow a second crop to be planted when the first crop is prevented from being planted. In this case, the prevented planting payment will be reduced by 65.0 percent; (3) Several provisions regarding program integrity are addressed. These include new tolerances for misreporting of information (*e.g.*, a 5.0 percent error tolerance for acreage and yield reporting). In addition, a new sanction is added when any person with a substantial beneficial interest in an insured crop does not provide a social security or employer identification number. This new sanction will eliminate program vulnerability caused by persons changing entity names to avoid ineligibility or changing previously used production history; (4) Provisions allowing arbitration to be used to settle contract disputes are removed. Arbitration has been determined by some to be too expensive. In addition, arbitration was intended to resolve any dispute involving acreage determinations, approved yield calculations, determinations of production to count, or other factual determinations. However, in practice, it has been used to resolve all policy disputes, including policy interpretation; and (5) Provisions allowing insurance for organically grown crops are added. The provisions of ARPA direct RMA to include organic farming practices as ''good farming practices,'' thereby making such crops insurable. The proposed changes are as follows:

1. FCIC proposes to amend subpart T to remove all references to limited coverage and revise the definition of additional coverage because there is no longer any practical distinction between limited and additional coverage. The definition of ''approved yield'' is revised to allow for adjustments in yields authorized by section 508(g)(4) of the Act.

2. FCIC proposes to amend the Group Risk Plan of Insurance Regulations (7 CFR part 407) as follows:

(a) Section 407.2(d) and (e)—Combine and specify that when a person applies for both a Catastrophic Risk Protection policy and an additional coverage policy for the same crop in the same county for the same crop year, and the person can demonstrate that multiple contracts of insurance were not the person's fault, the additional coverage policy will be in effect and the Catastrophic Risk Protection policy will

be canceled if: both policies are insured with the same insurance provider; or the policies are insured with different insurance providers and both insurance providers agree. Also specify that if both policies are additional coverage policies or both are Catastrophic Risk Protection policies, the policy with the earliest date of application will be in force, unless both policies are with the same insurance provider and the insurance provider agrees otherwise or both policies are with different insurance providers and both insurance providers agree otherwise;

(b) Section 407.6—Remove the ''good faith reliance on misrepresentation'' provisions because of the confusion surrounding the applicability of these provisions and to avoid the perception that FCIC was waiving the protection against the applicability of estoppel afforded it and permitting employees to bind FCIC with their errors;

(c) Section 407.9—Amend the first paragraph in the headings of both the ''FCIC policies'' and ''Reinsured policies'' sections to add a provision indicating procedures (including handbooks, manuals, and directives) issued by FCIC will be applied when administering the policy. This change allows introduction of procedures into arbitration and appeal proceedings. Also remove the provisions in the first paragraph in the ''FCIC policies'' section that indicates if the company cannot pay a loss it will be paid by FCIC and that no state guarantee fund will be liable to pay the loss, and place those provisions in the second paragraph in the ''Reinsured policies'' section. These provisions only apply to reinsured policies. In the third paragraph under the heading of ''Both policies'', change the 55 percent reference for Catastrophic Risk Protection coverage to 45 percent. Also revise the following sections in § 407.9:

Section 1—Definitions—Add definitions of ''agricultural commodity'' and ''cover crop,'' for clarification as these terms are used in the provisions. Also add definitions of ''double-crop,'' ''first crop'' and ''second crop'' because they are used in the provisions that limit multiple insurance payments on the same acreage in the same crop year. Also add the definition of ''sustainable farming practice'' and revise the definition of ''good farming practices'' to include sustainable and organic farming practices to incorporate the changes made to the Act by ARPA and specify that if producers use farming practices that are not commonly used in the area, they should contact their crop insurance provider to determine if such practice is insurable. Revise the definition of ''catastrophic risk protection'' to specify that coverage is equal to 65 percent of the expected county yield indemnified at 55 percent of the maximum protection per acre specified in the actuarial documents to comply with the requirements of the Federal Crop Insurance Act. Also revise the definition of ''actuarial documents'' to clarify that the information needed to determine the premium rate is contained in the actuarial documents and to add the RMA website address as a location of where the actuarial documents can be found. Add a definition of ''substantial beneficial interest'' to clarify the amount of interest needed and the status of spouses;

Section 3—Add provisions indicating an insured can elect not to insure acreage of a second crop when there is an insurable loss for planted acreage of a first crop, and to limit insurance on the third or subsequent crop on the same acreage for the same crop year. Delete provisions in section 3(d) because they have been combined with provisions contained in section 3(c);

Section 7—Clarify that it is the producer's responsibility to accurately report all information and add new sanctions for misreporting acreage report information. Since the operation of the program is dependant on accurate reporting by producers, stronger sanctions are imposed to ensure that producers completely and accurately report material information. Revise the provisions to require insurance under one policy when the same people are involved in multiple farming operations or are in the same family or household. This will improve program integrity by preventing producers from forming multiple entities with the intent to insure acreage under separate policies to gain a disproportionate advantage;

Section 8—Add provisions that specify that, if the amount of premium and administrative fee the producer is required to pay for any acreage exceeds the liability for the acreage, coverage for those acres will not be provided;

Section 9—Revise provisions to allow certain written agreements to remain in place for more than one crop year. Add provisions indicating that supporting records for at least four years must be provided when a request is made to insure a crop, type, variety or practice that is not insurable in the county to ensure that the crop, type, variety, or practice can be used successfully before providing insurance;

Section 10—Add provisions to allow any USDA employee to have access to the insured crop and any records pertaining to the insurance because of the changes in the Act that enhances the compliance efforts by involving other USDA agencies. Provisions are added indicating that failure to retain required records will result in no indemnity being due and premium still being owed because the need for records are an integral part of the policy because eligibility and premium and indemnities are based on such records. Without these records, program integrity cannot be maintained;

Section 13—Add provisions indicating which policy remains in force when a producer inadvertently obtains two policies on the same crop in the same county for the same crop year;

Section 14—Clarify that a producer may not recover attorneys fees or other charges, or any punitive, compensatory or any other damages except contractual damages, except as authorized in 7 CFR 400.352(b)(4);

Section 15—Revise provisions in both the FCIC policies and Reinsured policies by removing provisions regarding payment of compensatory, punitive or other damages, attorneys fees, or other charges because this language is clarified in section 14(c);

Section 16—Add provisions allowing review of loss determinations regarding ''good farming practices'' to comply with section 508(a)(3) of the Act. Delete the provisions regarding arbitration. Arbitration was intended to be an inexpensive alternative to the administrative appeals process that was available to producers that were directly insured by FCIC. FCIC has received numerous complaints from producers and the insurance companies regarding the arbitration process. One complaint is that arbitration is no longer inexpensive. Filing fees of up to $7,500 have been required to seek arbitration. Another problem that has been identified is what constitutes a ''factual determination.'' While a factual determination was intended to resolve matters involving acreage determinations, approved yield calculations, determinations of production to count, etc., it has been used to handle all disputes under the policy, including policy interpretation. Further, there have been numerous instances where state law has been applied even though state law is preempted by the Act, the policy, and the regulations. Other complaints have to do with the fact that many producers fail to file for arbitration before filing a judicial appeal, inconsistent decisions that have been rendered, and the potential for producers and insurance companies to abuse the system. Further, FCIC discovered that arbitration has been binding on the parties. Binding

arbitration is inconsistent with section 508(j) of the Act, which gives producers the right to file judicial appeals within one year of the denial of the claim. Given that arbitration no longer serves the purpose for which it is intended, FCIC has elected to remove the process from the policy and permit producers to resolve disputes through the judicial process;

Section 18—Revise the effect of failing to provide the social security numbers of persons with substantial beneficial interests or if persons with substantial beneficial interests are ineligible to eliminate the program vulnerability caused by changing the identity of insureds. Also require that all entities with at least a 10 percent interest in the insured or applicant provide the social security numbers of all persons with an interest in the entity. Consolidate provisions regarding the effect of failure to timely pay premium or administrative fees, allow voidance effective at the beginning of the crop year when a person fails to make payments under the terms of a payment agreement, and specify that premium must be paid by the termination date even if a claim is outstanding, and that failure to do so will result in termination and ineligibility in accordance with the terms of the policy;

Section 19—Clarify that policy changes will be posted on the RMA website or filed with the Office of the Federal Register by the contract change date and that such changes are available from the producer's local crop insurance provider; and

Section 21—Add a new section that specifies the amount of an insurance payment reduction when multiple crops are planted on the same acreage in the same crop year. This section also specifies the amount of premium reduction when an insurance payment is reduced. These changes are made to comply with the provisions of the Act that limit multiple crop insurance payments.

3. FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) as follows:

(a) Section 457.2(d)—Revise to specify that when a person applies for both a Catastrophic Risk Protection policy and an additional coverage policy for the same crop in the same county for the same crop year, and the person can demonstrate that multiple contracts of insurance were without the fault of the person, the additional coverage policy will be in effect and the Catastrophic Risk Protection policy will be canceled if: both policies are insured with the same insurance provider; or the policies are insured with different insurance providers and both insurance providers agree. Also specify that if both policies are additional coverage policies or both are Catastrophic Risk Protection policies, the policy with the earliest date of application will be in force, unless both policies are with the same insurance provider and the insurance provider agrees otherwise or both are with different insurance providers and both insurance providers agree otherwise;

(b) Section 457.6—Delete the ''good faith and reliance on misrepresentation'' provisions contained in that section because of the confusion surrounding the applicability of those provisions and to avoid the perception that FCIC was waiving the protection against the applicability of estoppel against it and permitting employees to bind FCIC with their errors;

(c) Section 457.8—Change the preamble to make it clear that FCIC issued procedures (including handbooks, manuals, and directives) will be used in the administration of the policy unless they are in conflict with the provisions of the policy, the Act, or the regulations. Also revise the following sections in § 457.8:

Section 1 (Additions)—Add definitions of ''annual crop'' and ''perennial crop'' to distinguish the difference between them. Add definition of ''average yield'' to distinguish the difference between it and the approved yield. Add definition of ''border'' since that term has been added in the section 34 to recognize different planting patterns or plant densities as borders for unit division. Add definitions of ''buffer zone,'' ''certified organic acreage,'' ''certifying agent,'' ''organic farming practice,'' ''organic plan,'' ''organic standards,'' ''prohibited substance,'' ''sustainable farming practice'' and ''transitional acreage'' because they are used in the provisions to comply with the Act that considers scientifically sound sustainable and organic farming practices to be recognized good farming practices. Add the definitions of ''double-crop,'' ''first crop'' and ''second crop'' because they are used in provisions which limit multiple insurance payments in compliance with the requirements of the Act. Add the definitions of ''cover crop,'' ''disinterested third party,'' and ''liability'' for clarification since they are used in other provisions. Add the definition of ''Secretary'' because it is used in the definition of certifying agent.

Section 1 (Deletions)—Delete the definitions of ''loss, notice of'' and ''damage, notice of'' because these terms are not needed since section 14 contains provisions regarding these notices.

Section 1 (Revisions)—Revise the definition of ''actuarial documents'' to clarify that the information needed to determine the premium rate is contained in the actuarial documents and on RMA's website. Revise the definition of ''agricultural commodity'' to clarify that it is any crop or other commodity produced, regardless of whether or not it is insurable. Revise the definition of ''contract change date'' for clarification. Revise the definition of ''crop year'' to specify that this definition may be modified by the Crop Provisions. Revise the definition of ''delinquent account'' to include administrative fees and interest on amounts due. Revise the definition of ''earliest planting date'' to clarify that it applies only to the replanting provisions of the policy. Revise the definition of ''enterprise unit'' to clarify that acreage making up the unit must be planted acreage (acreage that is prevented from being planted will not be used to meet eligibility requirements for an enterprise unit). Revise the definition of ''field'' to clarify that separate crops or planting patterns do not create separate fields. Revise the definition of ''good farming practices'' to include sustainable farming practices. Revise the definition of ''non-contiguous'' to specify that only tracts separated by different land ownership will qualify as non-contiguous units. Revise the definition of ''practical to replant'' to specify the cost of seed or plants will not be considered. Revise the definition of ''prevented planting'' by specifying that it must be due to excess moisture or because weather conditions are such that the seed would not be expected to germinate or produce a crop. Also moved current language contained in the definition of prevented planting, regarding the insured cause of loss that prevented planting must be general in the surrounding area and must have prevented other producers from planting acreage with similar characteristics, to the prevented planting provisions contained in section 17. Revise the definition of ''price election'' to indicate the price election may be contained in a written agreement. Revise the definition of ''replanting'' to remove the requirement that replacing the seed or plants of the same crop would result in the expectation of producing at least the yield used to determine the production guarantee. This change will allow insurance providers to determine that it is practical to replant after the final planting date if other producers in the

area are also replanting, even though replanting after the final planting date could produce yields less than the yields used to determine the production guarantee. Specify that the same seeds or plants must be placed in the same insured acreage to be considered replanting. Revise the definition of ''substantial beneficial interest'' to clarify the status of spouses. Revise the definition of ''whole farm unit'' to clarify that the acreage making up the unit must be planted to two or more insured crops and that acreage that is prevented from being planted will not be used to qualify for a whole farm unit. Require that all crops for which the whole farm unit structure is available must be included in the whole farm unit, and that no one crop can constitute more than 75 percent of the total liability of all insured crops in the whole farm unit. Also require that all crops in the whole farm unit must be insured under the same plan of insurance and with the same insurance provider;

Section 2—Revise the provisions regarding the failure to provide social security numbers of persons with a substantial beneficial interest or if persons with a substantial beneficial interest are ineligible to eliminate the vulnerability caused by changing the identity of insureds. Also require that all entities with at least a 10 percent interest in the insured or applicant provide the social security numbers of all individuals with an interest in the entity. Clarify provisions regarding when ineligibility occurs when the producer fails to make a scheduled payment under a payment agreement and that all premium and administrative fees must still be paid by the termination date even if a claim is still outstanding. This is to eliminate the confusion regarding whether producers are ineligible if they fail to pay the premium or administrative fees by the termination date. References to the nonstandard classification have been removed because the system is no longer in use;

Section 3—Add provisions indicating that coverage cannot be increased if a cause of loss that could result in an insured loss is present at the time the increase is requested. Also add a provision to require the producer to submit previous crop years records of production in any year that a claim is made if such records have not previously been provided. A sanction is added when a corrected yield is lower than 95 percent of the original yield. This change is necessary to protect the integrity of the crop insurance program because the operation of the program relies heavily on the accurate reporting by producers. A tolerance of 5 percent is included to be consistent with tolerances in other aspects of the program. However, the receipt of complete and accurate information is crucial to the program. Clarify that yields may also be adjusted if they are inconsistent with other similarly situated units unless the producer can demonstrate a physical basis for the discrepancy (*e.g.*, hail or other insured causes, etc.), or if a small amount of acreage is used to establish the yield (representative samples cannot be used to establish yields except when representative samples are used to calculate any indemnity). Given the ease in which production can be shifted to create losses or to increase approved yields, the policy must provide a mechanism to allow correction when the surrounding yields show that the reported yields are not accurate, unless the producer can show that there is a physical reason for the difference in yields. Add provisions stating that an assigned yield will be used to calculate the approved yield for the first crop when a second crop is planted after the first crop is prevented from being planted. This change is made to conform with section 508A(c)(3) of the Act;

Section 4—Clarify that contract changes will be filed with the Office of the Federal Register or placed on RMA's website by the contract change date and will be available from the local crop insurance provider;

Section 5—Delete the liberalization provisions because they conflict with the preamble to the Basic Provisions;

Section 6—Add provisions indicating that insureds cannot revise the acreage report without consent after reporting any prevented planting acreage. Clarify that it is the producer's responsibility to accurately report all information and add new sanctions for misreporting acreage report information. Since the operation of the program is dependent on accurate reporting by producers, stronger sanctions are imposed to ensure that producers completely and accurately report material information;

Section 7—Clarify that the information needed to calculate the premium and premium adjustments are in the actuarial documents since the rates themselves may no longer be included in the actuarial documents. Add provisions stating that coverage will not be provided if the amount of premium and administrative fee the producer is required to pay exceeds the liability for the acreage;

Section 8—Clarify that the crop is not insurable if the information needed to insure it is not in the actuarial documents, or if the crop is grown using a farming practice or is a type, class or variety that is not adapted to the area. Add provisions stating that a farming practice, type, class, or variety that is not established or widely used in an area may not be considered a good farming practice. This change is made to ensure that determinations of insurability are consistent with good farming practices;

Section 9—Change provisions to allow insurance on acreage when it has not been planted in the previous three crop years if the producer can show that the acreage was not planted in at least 2 of those years to comply with another USDA program, or when the acreage constitutes 5 percent or less of the planted acreage in the unit. This is to clarify the number of years that the acreage can not be planted to comply with another USDA program and to avoid the uninsurability of acreage when a deminimus amount of acreage is uninsurable. Add provisions indicating that coverage will not be provided for acreage on which the insured crop is damaged unless the crop is replanted when practical in a timely manner. Add provisions to allow producers to elect not to insure a crop planted after a first crop to avoid reductions to a first crop indemnity when there is a loss on the second crop. Add provisions to prohibit insurance for any crop following a second crop unless the producer provides records proving that a third crop has been produced and harvested in the past;

Section 10—Change provisions to require insurance under one policy when the same people are involved in multiple farming operations or are in the same family or household. This will improve program integrity by preventing producers from forming multiple entities with the intent to insure acreage under separate policies to gain a disproportionate advantage;

Section 12—Revise the insurable cause of loss provisions to indicate that all insurable causes of loss must be due to acts of nature, except cases in which the policy specifically covers loss of revenue due to reduced prices in the marketplace. Change provisions to prohibit payments for losses due to water released from levee systems, dams, or reservoir projects on any acreage on which there is a water easement. This change prevents payments on acreage that is flooded frequently and where consideration has been received for the right to flood land. Add provisions to allow coverage for losses caused by failure of irrigation facilities or equipment if the failure is

due to an insured cause of loss. Add a provision to exclude causes of loss where the damage does not manifest until the crop is placed in storage unless expressly authorized by the Crop Provisions because of the problems associated with notice and determining losses after the production has been commingled;

Section 14—Revise the section heading to refer to situations in which a producer abandons, destroys, or puts the insured crop or acreage to an alternative use. This change is made to clarify that this section also includes duties in situations other than when there is crop damage or loss. Remove provisions that allow producers to file late notices of loss. This change will prevent late notices of loss and improve accuracy of loss adjustment. Add provisions regarding leaving representative samples of the unharvested crop so that provisions applicable to most annual crops can be removed from the Crop Provisions as they are revised. Add provisions to allow a time extension to submit a claim for indemnity to allow for situations in which determinations necessary to finalize a claim cannot be made within 60 days. Add a 72 hour notice requirement for prevented planting to permit the reinsured company to verify the cause of the prevented planting. Add provisions requiring separate records to be maintained for acreage subject to the indemnity reductions because a second crop is planted on the acreage in order to implement changes required by section 508A of the Act. Add a provision indicating a claim will be denied if the producer fails to comply with the conditions of this section. Add provisions allowing the payment of claims to be delayed until the amount of production can be determined from the acreage on which a second crop was planted, completion of the administrative review regarding good farming practices, or the investigation of a past or present claim by USDA;

Section 15—Clarify the ''appraised production'' provisions by specifying that appraisals are only used when the acreage will not be harvested and if the acreage is later harvested, that production must be reported. If the harvested production exceeds the appraised production, the indemnity will be adjusted in order to protect program integrity by preventing the overpayment of losses. Add provisions regarding the consequences of planting a second crop on acreage where the first crop had failed or was prevented from being planted in conformance with section 508A of the Act. Add a provision requiring the producer to show proof of the destruction of a crop if such destruction is required by the Government prior to collecting an indemnity to ensure that producers are not receiving an indemnity based on such destruction when no destruction occurred;

Section 17—Clarify the prevented planting provisions to specify that the producer must have been prevented from planting during the whole planting season, not just the last few days to protect program integrity by avoiding paying claims to producers who had the ability to timely plant the crop and elected not to do so until it was too late. Clarify the terms ''surrounding area'' and ''acreage with similar characteristics''. Clarify that the premium for prevented planted acreage will be the same as for planted acreage unless reduced in accordance with section 15(f) pertaining to second crops. Clarify that uninsured acreage cannot be used to determine the number of acres eligible for prevented planting. Add provisions to allow a producer who has not grown a crop in a certain county and who obtains acreage in that county after the sales closing date to submit an intended acreage report within 10 days after acreage is obtained. No cause that will or could prevent planting can be evident at the time the acreage is obtained. This change will allow a producer to establish eligible prevented planting acres for acreage obtained after the sales closing date. Revise provisions to clarify that the minimum acres or production specified in a processor contract is used when calculating the number of acres eligible for prevented planting. Modify the requirement to call prevented planting acreage the same crop that is in the field when it is clear the crop intended for the remainder of the field would not have been the same because of rotation requirements or processor contract requirements. Clarify that prevented planting acres are limited to the number of acres for which the producer is required to pay either cash or share rent when acreage is leased. This change will prevent payment on acreage in which a producer has no financial interest. Revise provisions containing requirements for double-cropped acreage, and to allow a prevented planting payment for a first crop when a second crop is planted after the late planting period for the first crop. This change is made to conform to section 508A of the Act. Add provisions that prohibit a payment if any pasture or forage crop is in place on the acreage during the time that planting of the insured crop generally occurs in the area. Add provisions that prohibit a payment for any acreage if at the time the acreage is obtained, a cause of loss has occurred that will or could prevent planting. Add a provision to specify that administrative fees will not be charged for the crop upon which the prevented planting acreage is based, if switching the prevented planting crop results in an extra administrative fee the producer would not have been required to pay had the acreage not been switched to the other crop. Also added a provision to specify that if a producer is prevented from planting a non-irrigated crop and the producer does not have any remaining eligible prevented planting acreage for that crop and also does not have any other remaining eligible prevented planting acres for any other crop under a non-irrigated practice, no prevented planting payment will be made. These changes are made to improve program integrity;

Section 18—Revise provisions to allow written agreements to remain in place for more than one crop year provided the conditions under which it was issued remain constant. Revise the provisions to allow application for a written agreement after the sales closing date, if submitted in accordance with FCIC approved procedure. Add provisions indicating that supporting records for at least four years must be provided when a request is made to insure a crop, type, variety or practice that is not insurable in the county to allow for a determination of proper yields and to ensure that the crop, type, variety, or practice can be used successfully before providing insurance. This will eliminate the possibility of buying losses;

Section 20 (for both FCIC policies and reinsured policies)—Add provisions allowing review of loss determinations regarding ''good farming practices'' to comply with section 508(a)(3) of the Act. Delete the provisions regarding arbitration. Arbitration was intended to be an inexpensive alternative to the administrative appeals process that was available to producers that were directly insured by FCIC. FCIC has received numerous complaints from producers and the insurance companies regarding the arbitration process. One complaint is that arbitration is no longer inexpensive. Filing fees of up to $7,500 have been required to seek arbitration. Another problem that has been identified is what constitutes a ''factual determination.'' While a factual determination was intended to resolve matters involving acreage determinations, approved yield calculations, determinations of production to count, etc., it has been

used to handle all disputes under the policy, including policy interpretation. Further, there have been numerous instances where state law has been applied even though state law is preempted by the Act, the policy, and the regulations. Other complaints have to do with the fact that many producers fail to file for arbitration before filing a judicial appeal, inconsistent decisions that have been rendered, and the potential for producers and insurance companies to abuse the system. Further, FCIC discovered that arbitration has been binding on the parties. Binding arbitration is inconsistent with section 508(j) of the Act, which gives producers the right to file judicial appeals within one year of the denial of the claim. Given that arbitration no longer serves the purpose for which it is intended, FCIC has elected to remove the process from the policy and permit producers to resolve disputes through the judicial process;

Section 21—Add provisions to allow any USDA employee to have access to the farm and records pertaining to the insurance because of the changes in the Act that enhances the compliance efforts by involving other USDA agencies. Provisions are added to clarify that records used to establish the basis of a replant payment must be maintained for 3 years. Clarify that the record retention requirements also apply to records used to establish the insurance guarantee. Provisions are added indicating that failure to retain required records will result in no indemnity or replant or prevented planting payment being due and premium still being owed because the need for records are an integral part of the policy because eligibility and the guarantees, premium and indemnities are based on such records. Without these records, program integrity cannot be maintained;

Section 22—Add provisions indicating which policy remains in force when a producer inadvertently obtains two policies on the same crop in the same county for the same crop year;

Section 24—Add provisions indicating when interest begins to accrue on unpaid administrative fees and revise provisions to allow amounts owed to FCIC to be collected by administrative offset;

Section 30—Specify that if an insured receives any funds from someone else, the insured must repay the insurance provider the amount received from them, not to exceed the amount of indemnity paid to the insured;

Section 34—Clarify the provisions regarding the reporting requirements for enterprise units. Add provisions indicating the basic unit structure will be applied if a producer elects a whole farm unit but does not qualify for it. Revise the provisions to remove the requirement to have a discernible break in the planting pattern at the boundaries between optional units and to require only that a clear and discernible border be maintained between optional units. This change eliminates the undue burden on producers to change their planting patterns between optional units such as between irrigated and non-irrigated acreage around a center pivot and now allows the producer to use other means, such as plowing bare strips, to separate the acreage. Revise the provisions regarding the record keeping requirements to qualify for optional units to clarify that even though producers must maintain records by optional units to qualify for such unit structure in the next crop year, approved yields will still be based on four years of production history as required by the Act. Add provisions to allow separate optional units for acreage insured under an organic farming practice;

Section 36—Revise provisions to specify that one or more actual yields used to calculate the actual production history yield that are less than 60 percent of the transitional yield due to drought, flood or other act of nature, may be replaced with a yield equal to 60 percent of the transitional yield that was applicable for the crop year in which the replacement occurs, if the producer elects such option by the sales closing date for the insured crop. Current provisions do not specify this option had to be elected by the sales closing date, nor do they specify that the producer can elect to have any one or all such yields replaced; and

Section 37—Add provisions allowing insurance for crops grown using organic farming practices. This change is made to comply with provisions contained in ARPA that require organic farming practices to be considered good farming practices. Current regulations provide coverage for organic farming practices only if approved by written agreement. This is because crop insurance premium rates and insurance guarantees have been established based on conventional farming practices. Written agreements are used to provide a premium rate and insurance guarantee appropriate for the risks involved with organic farming practices.

Under current regulations, if a producer utilizes organic farming practices and does not have an approved written agreement, the producer will be insured under a conventional farming practice. Therefore, if an organic producer did not have an approved written agreement and suffered a loss, but the loss could have been avoided by using conventional farming practices, such loss would not be covered. However, if a producer had an approved written agreement, any loss of production would be covered if the loss was a result of an insured cause, provided the producer followed the approved organic farming practices.

The proposed regulations provide the terms and conditions under which crops grown using organic farming practices would be insured. Written agreements would no longer be necessary under the proposed regulations for crops grown organically in counties for which the actuarial documents designate a premium rate for organic farming practices.

4. FCIC is also soliciting comments regarding the definition of ''limited resource farmer'' contained in section 1 of the Common Crop Insurance Regulations, Basic Provisions (7 CFR 457.8). FCIC understands the following definition is being considered for use by other USDA agencies:

''A Limited Resource Farmer/Producer has one or more of the following characteristics:

(a) Total operator household income is under $20,000; total farm assets are under $150,000; and annual gross sales are under $100,000.

(b) Total gross household net income, for both farm and non-farm, is 75 percent or less of the median household income level for the state or county of residence, as determined by State Conservationist.''

Any comments regarding this definition and its effect on the crop insurance program are welcome.

List of Subjects in 7 CFR Parts 400, 407, and 457

Administrative practice and procedure, Claims, Crop insurance, Fraud, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 400, 7 CFR part 407, and 7 CFR part 457 effective for the 2003 and succeeding crop years for all crops with a contract change date of November 30, 2002 or later, to read as follows:

PART 400–GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

Subpart T—Federal Crop Insurance Reform, Insurance Implementation

2. Revise the heading of subpart T to read as set forth above.

§ 400.650 [Amended]

3. In § 400.650, remove ''limited coverage'' from the second sentence.

4. In § 400.651:

a. Revise the definitions of ''additional coverage'' and ''approved yield'';

b. Remove ''limited,'' from the definition of ''administrative fee''; and

c. Remove the definition of ''limited coverage''.

The revisions read as follows:

§ 400.651 Definitions.

* * * * *

Additional coverage. A level of coverage greater than catastrophic risk protection.

* * * * *

Approved yield. The actual production history (APH) yield determined in accordance with 7 CFR part 400, subpart G, including any adjustment elected by the producer in accordance with the applicable crop insurance policy.

* * * * *

§ 400.652 [Amended]

5. In § 400.652:

a. Remove '',limited,'' from paragraph (a);

b. Remove the words ''Limited and'' from paragraph (b) and capitalize the first letter in the word ''additional''; and

c. Remove the words ''limited and'' from paragraph (d).

§ 400.654 [Amended]

6. In § 400.654:

a. Remove '',limited'' from paragraph (a);

b. Remove the words ''limited or'' from paragraph (c)(6); and

c. Remove '',limited,'' from paragraph (d).

PART 407—GROUP RISK PLAN OF INSURANCE REGULATIONS FOR THE 2003 AND SUCCEEDING CROP YEARS

7. The authority citation for 7 CFR part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

8. Amend part 407 by revising the part heading as set forth above.

9. Amend § 407.2 by:

a. Removing paragraphs (d) and (e), adding a new paragraph (d) and redesignating paragraphs (f) through (h) as paragraphs (e) through (g) respectively; and

b. Amend newly designated paragraph (e) by replacing the phrase ''§ 407.8, paragraph 21'' with the phrase ''§ 407.9, paragraph 15''.

The revision reads as follows:

§ 407.2 Availability of Federal crop insurance.

* * * * *

(d)(1) Except as specified in paragraph (c) of this section, if a person has more than one contract under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple contracts of insurance were without the fault of the person. If the multiple contracts of insurance are shown to be without the fault of the person and:

(i) One contract is an additional coverage policy and the other contract is a Catastrophic Risk Protection policy, the additional coverage policy will apply if both policies are with the same insurance provider, or if not, both insurance providers agree, and the Catastrophic Risk Protection policy will be canceled (If the insurance providers do not agree, the policy with the earliest date of application will be in force and the other contract will be canceled); or

(ii) Both contracts are additional coverage policies or both are Catastrophic Risk Protection policies, the contract with the earliest signature date on the application will be valid and the other contract on that crop in the county for that crop year will be canceled, unless both policies are with the same insurance provider and the insurance provider agrees otherwise or both policies are with different insurance providers and both insurance providers agree otherwise.

(2) No liability for indemnity or premium will attach to the contracts canceled as specified in paragraphs (d)(1)(i) and (ii) of this section.

* * * * *

§ 407.6 [Removed and reserved]

10. Remove and reserve § 407.6.

§ 407.7 [Amended]

11. Amend § 407.7 by removing the words ''Except as may be allowed under § 407.6, and at the sole discretion of the Corporation,'' and capitalizing the first letter in the word ''no'' in the fourth sentence;

12. Amend § 407.9, as follows:

a1. Revise the introductory text of the section;

a2. Revise the first paragraph of both the ''FCIC policies'' and ''Reinsured policies'' sections, and revise the second paragraph in the heading of the ''Reinsured policies'' section;

b. Amend the third paragraph in the headings of the ''Both Policies'' section by replacing the number ''55'' with the number ''45'';

c. Amend section 1—Definitions—by adding definitions of ''agricultural commodity,'' ''cover crop,'' ''double-crop,'' ''first crop,'' ''second crop,'' ''substantial beneficial interest,'' and ''sustainable farming practice'' and revising the definitions of ''actuarial documents,'' and ''good farming practices.'' Also replace the number ''55'' with the number ''45'' in the definition of ''catastrophic risk protection'';

d. Revise section 3(c);

e. Delete section 3(d);

f. Amend section 4(a) by replacing the number ''55'' with the number ''45'';

g. Amend section 7(a) by deleting the last sentence;

h. Delete section 7(c) and redesignate sections 3(d) and (e) as sections 3(c) and (d), respectively;

i. Revise redesignated sections 7(c) and (d);

j. Add new sections 7(e) and (g) and add and reserve section 7(f);

k. Amend section 8 by deleting subsections (g) and (h) and adding a new subsection (g);

l. Revise sections 9(c) and (d) and add sections 9(e) and (f);

m. Revise section 10;

n. Revise section 13;

o. Revise section 14(c);

p. Amend section 15(c) by deleting the second sentences in both the FCIC and the Reinsured policy versions;

q. Revise section 16;

r. Revise section 18(b);

s. Revise sections 18(e) introductory text, (e)(1), (e)(3), (e)(5) through (e)(7), and (e)(9) and (e)(10) and add subsection (e)(11);

t. Revise section 19(b); and

u. Add a new section 21 between the first paragraph of section 20 and the example immediately following that paragraph.

The revised and added sections read as follows:

§ 407.9 Group risk plan common policy.

The provisions of the Group Risk Plan Common Policy for the 2003 and succeeding crop years are as follows:

* * * * *

[FCIC policies]

This insurance policy establishes a risk management program developed by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government, under the authority of the Federal Crop Insurance Act (Act), as amended (7 U.S.C.

1501 *et seq.*). All terms of the policy and rights and responsibilities of the parties thereto are subject to the Act and all regulations under the Act published in 7 CFR chapter IV. The provisions of this policy may not be waived or varied in any way by the crop insurance provider, an agent or any other agent or employee of the crop insurance provider, FCIC, the Risk Management Agency (RMA) or the Farm Service Agency (FSA). Procedures (including handbooks, manuals, and directives) issued by us and published on the RMA Web site at *http://www.rma.usda.gov/* or a successor Web site will be used in the administration of this policy. If there is a conflict between the provisions of your policy, the Federal Crop Insurance Act (Act), or the regulations published at 7 CFR chapter IV and the procedures issued by us, the terms of your policy, the Act, or such regulations control. All provisions of state and local laws in conflict with the provisions of this policy as published at 7 CFR part 407 are preempted and the provisions of this policy control.

* * * * *

[Reinsured policies]

This insurance policy establishes a risk management program developed by the Federal Crop Insurance Corporation (FCIC), an agency of the United States Government, under the authority of the Federal Crop Insurance Act (Act), as amended (7 U.S.C. 1501 *et seq.*).

This insurance policy is reinsured by FCIC under the provisions of the Act. All terms of the policy and rights and responsibilities of the parties are subject to the Act and all regulations under the Act published in 7 CFR chapter IV. The provisions of this policy may not be waived or varied in any way by the crop insurance provider, an agent or any other agent or employee of the crop insurance provider, FCIC, the Risk Management Agency (RMA) or the Farm Service Agency (FSA). Procedures (including handbooks, manuals, and directives) issued by FCIC and published on the RMA Web site at *http://www.rma.usda.gov/* or a successor Web site will be used in the administration of this policy. If there is a conflict between the provisions of your policy, the Federal Crop Insurance Act (Act), or the regulations published at 7 CFR chapter IV and the procedures issued by FCIC, the terms of your policy, the Act, or such regulations control. All provisions of State and local law in conflict with the provisions of this policy as published in 7 CFR part 407 are preempted and the provisions of such part will control. In the event that we cannot pay a loss, the claim will be settled in accordance with the provisions of the policy and paid by FCIC. No state guarantee fund will be liable to pay the loss.

* * * * *

1. Definitions.

* * * * *

Actuarial documents. The material for the crop year which is available for public inspection in your insurance provider's local office and published on RMA's Web site at *http://www.rma.usda.gov/* or a successor Web site, and which shows the maximum protection per acre, expected county yield, coverage levels, information needed to determine the premium rates, practices, program dates, and other related information regarding crop insurance in the county.

* * * * *

Agricultural commodity. Any crop or other commodity produced, regardless of whether or not it is insurable.

* * * * *

Cover crop. A crop that is commonly planted in the area for erosion control or green manure and is generally left in place for one growing season.

* * * * *

Double-crop. The practice of producing two or more crops for harvest on the same acreage in the same crop year.

* * * * *

First crop. With respect to a single crop year and any specific crop acreage, the first instance that an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act. For example, if winter wheat that is not insured is planted on acreage that is later planted to soybeans that are insured, the first crop would be soybeans. If the winter wheat was insured, it would be the first crop.

* * * * *

Good farming practices. The farming practices that are commonly used in the area where the crop is produced, including sustainable farming practices, that are recognized by FCIC to be necessary for the crop to make normal progress toward maturity and to be compatible with the agronomic and weather conditions in the area. For crops grown under an organic practice, the farming practices approved by a private organization or government agency that certifies organic products in accordance with 7 CFR part 205 and is accredited in accordance with the requirements of the Federal Organic Food Production Act of 1990. If you use a farming practice not commonly used in the area, you should contact us to determine if such practice is insurable.

* * * * *

Second crop. With respect to a single crop year, any agricultural commodity that is planted immediately following a first crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first crop, except the term does not extend to a replanting of a first crop when it is required by the policy. A cover crop, planted after a first crop, that is hayed, grazed or harvested will be considered a second crop.

* * * * *

Substantial beneficial interest. An interest held by any person of at least 10 percent in the applicant or insured. All spouses and children that reside in the same household will be considered to have a substantial beneficial interest in the applicant or insured unless the spouse or children can prove that the acreage farmed by the applicant or insured is a totally separate farming operation in accordance with FCIC issued procedure and that the spouse or children derive no benefit from the farming operation of the insured or applicant.

* * * * *

Sustainable farming practice. A system or process for producing an agricultural commodity recognized by the Natural Resources Conservation Service (NRCS) or a successor agency as likely to conserve or enhance natural resources and the environment.

* * * * *

3. Insured and Insurable Acreage.

* * * * *

(c) We will not insure any acreage:

(1) Where the crop was destroyed or put to another use during the crop year for the purpose of conforming with, or obtaining a payment under, any other program administered by the USDA;

(2) Where you have failed to follow good farming practices for the insured crop (If any farming practice is not established or widely used in the area, it may not be considered a good farming practice);

(3) Of a second crop if you elect not to insure such acreage when there is an insurable loss for planted acreage of a first crop and you intend to collect an unreduced indemnity for the first crop acreage in accordance with section 21 (You must make the election not to insure acreage of a second crop on or before the acreage reporting date for the second crop and you must report the crop acreage that will not be insured by the applicable acreage reporting date); or

(4) Of a crop that is planted following a second crop or following an insured crop that is prevented from being planted after a first crop, unless it is an established practice in the area to plant three or more crops for harvest on the same acreage in the same crop year, and additional coverage insurance provided under the authority of the Act is offered for the third or subsequent crop in the same crop year. Insurance will only be provided for a third or subsequent crop as follows:

(i) You must provide records acceptable to us that show:

(A) You have produced and harvested the insured crop as a third or later crop on the same acreage in the same crop year in at least two of the last four years in which you produced the insured crop; or

(B) The applicable acreage has had three or more crops produced and harvested on it in at least two of the last four years in which the insured crop was grown on it; and

(ii) The amount of insurable acreage will not exceed 100 percent of the greatest number of acres for which you provide the records required in section 3(c)(4)(i)(A) or (B).

* * * * *

7. Report of Acreage and Share.

* * * * *

(c) The premium amount and payment of an indemnity will be based on your insurable acreage on the acreage reporting date subject to section 7(d).

(d) You should verify all information on the acreage report prior to submitting it to us. If you report information that results in an amount of policy protection 95.0 to 105.0 percent of the corrected policy protection

amount for the crop, any indemnity will be based on the corrected policy protection amount. If the information you reported results in an amount of policy protection less than 95.0 percent or greater than 105.0 percent of the corrected policy protection amount for the crop, no indemnity will be due. Even though there is no indemnity due, you will still be required to pay the premium due under the policy for the crop. The premium amount used for this purpose will be based on the corrected policy protection amount.

(e) If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(f) [Reserved]

(g) We will include in your share or under your policy for any insured crop, any acreage or interest held by a corporation, partnership, association, or other legal entity in which you have a share if the other shareholders, stakeholders, or persons affiliated with the corporation, partnership, association, or other legal entity are all members of your family or household or are the same persons that are the shareholders, stakeholders, or persons affiliated with the other corporation, partnership, association, or other legal entity in which you are a shareholder, stakeholder or otherwise affiliated. For example, if you are in one partnership with John Doe and Jane Doe that insures 100 acres and you enter a different partnership with John Doe and Jane Doe, that rents another 100 acres, all 200 acres must be insured under the original partnership policy.

8. Administrative Fees and Annual Premium.

* * * * *

(g) If the amount of premium (gross premium less premium subsidy paid on your behalf by FCIC) and administrative fee you are required to pay for any acreage exceeds the amount of policy protection for the acreage, coverage for those acres will not be provided (no premium or administrative fee will be due and no indemnity will be paid for such acreage).

9. Written Agreements.

* * * * *

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop practice, type or variety, the yield or other basis used to determine the protection per acre, premium rate or information needed to determine the premium rate, and price election;

(d) Each written agreement will only be valid for the number of crop years specified in the written agreement, not to exceed four years, or as long as the conditions under which the agreement was issued exist, whichever time period ends first (Such conditions include, but are not limited to, farming practices used, legal description of the acreage, practice, types or varieties produced, etc. If any condition changes, you must notify us immediately, the written agreement will no longer be effective, and you must request a new written agreement. Failure to immediately notify us of changed conditions will result in denial of liability under the terms of the written agreement. If a written agreement is not specifically renewed after it expires, insurance coverage for subsequent years will be in accordance with the printed policy);

(e) For a crop, type, variety or practice that is not insurable in the county, you must provide at least four years of records to support the change you are requesting (If you do not have at least four years of records to support the requested change, your request for a written agreement will be denied); and

(f) Any written agreement will be denied if FCIC determines the risk is excessive.

10. Access to Insured Crop and Record Retention.

(a) We, and any employee of USDA, or our employee, agent or loss adjuster have the right to examine the insured crop and any records relating to the crop and this insurance at any location where such crop or records may be found or maintained, as often as required. Records pertaining to the planting of the insured crop and your net acres must be retained for a period of three years after the end of the crop year or three years after the date of final payment of the indemnity, whichever is later.

(b) We may extend the record retention period beyond three years by notifying you of such extension in writing.

(c) Failure to allow access to the crop or records, or failure to maintain records will result in a determination that no indemnity is due. Even though no indemnity is due, you will still be required to pay the premium due under the policy.

* * * * *

13. Other Insurance.

Nothing in this section prevents you from obtaining other insurance not issued under the authority of the Act. However, unless specifically required by policy provisions, you must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If you cannot demonstrate that you did not intend to have more than one policy in effect, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If you can demonstrate that you did not intend to have more than one policy in effect, and:

(a) One is an additional coverage policy and the other is a Catastrophic Risk Protection policy:

(1) The additional coverage policy will apply if both are with the same insurance provider, or if not, both insurance providers agree; or

(2) The policy with the earliest date of application will be in force if both insurance providers do not agree; or

(b) Both are additional coverage policies or both are Catastrophic Risk Protection policies, the policy with the earliest date of application will be in force and the other policy will be void unless both policies are with:

(1) The same insurance provider and the insurance provider agrees otherwise; or

(2) Different insurance providers and both insurance providers agree otherwise.

14. Legal Action Against Us.

* * * * *

(c) You may not recover any attorneys fees or other charges, or any punitive, compensatory or any other damages except contractual damages, except as authorized in 7 CFR 400.352(b)(4).

* * * * *

[FCIC policy]

16. Determinations.

(a) All determinations required by the policy will be made by us. If you disagree with our determinations, you may:

(1) Except as provided in section 16(a)(2), obtain reconsideration of or appeal those determinations in accordance with appeal provisions published at 7 CFR part 11; or

(2) Request a reconsideration of our loss determination regarding good farming practices in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J.

(b) In any appeal or reconsideration, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV are binding and any state or local laws that are in conflict with the terms of the policy, the Act, and the regulations are preempted.

[Reinsured policy]

16. Determinations.

(a) Except as provided in section 16(d), you may appeal any determination made by FCIC in accordance with appeal provisions published at 7 CFR part 11.

(b) No award determined by appeal or administrative reconsideration can exceed the amount of liability established or which should have been established under the policy.

(c) In any appeal proceeding or reconsideration, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV are binding and any state or local laws that are in conflict with the terms of the policy, the Act, and the regulations are preempted.

(d) If you do not agree with any loss determination made regarding good farming practices, you may request reconsideration of this determination in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J.

* * * * *

18. Life of Policy, Cancellation, and Termination.

* * * * *

(b) Your application for insurance must contain all the information required by us to insure the crop.

(1) Applications that do not contain all social security numbers and employer identification numbers of the applicant and all social security numbers of individuals with a substantial beneficial interest in the applicant and shares, as applicable, coverage level, price election, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable.

(2) If an entity has an interest of 10 percent or more in the insured or applicant, the social security number of all individuals with an interest in the entity must be provided.

(3) Notwithstanding any provision contained in 7 CFR part 400, subpart U, if we discover that a person with a substantial beneficial interest has failed to provide a social security number or if a person with a substantial beneficial interest in the insured crop is ineligible:

(i) For the year of application, the application will not be accepted for the insured crop for which the social security numbers were not provided or the person was ineligible; or

(ii) For any crop year after the year of application, no indemnity will be due for the insured crop for which the social security numbers were not provided or the person was ineligible. Even though no indemnity is due, you will still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned. No administrative fee will be due for such crops.

* * * * *

(e) The premium, administrative fee, and any other amount due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions or the date contained in a notice to you of overpayment or any payment agreement. Termination may affect your eligibility for benefits under other USDA programs. Any amount due to us for any crop insured by us under the authority of the Act will be deducted from any indemnity due you for this or any other crop insured with us. All administrative fees and related interest are owed to FCIC and failure to timely pay such fees when due may also subject you to other administrative offsets. If any premium, administrative fee, and any other amount due, plus any accrued interest, is not paid on or before the termination date for the crop on which the amount is due:

(1) For a policy with unpaid administrative fees, premium or related interest, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

* * * * *

(3) Ineligibility will be effective on:

(i) The date that a policy was terminated for the crop for which you failed to pay premium, an administrative fee, and any related interest owed;

(ii) The payment date contained in any notification of indebtedness for any overpaid indemnity, if you fail to pay the amount owed by such due date; or

(iii) The termination date for the crop year prior to the crop year in which a scheduled payment is due under a payment agreement if you fail to pay the amount owed by any payment date in such payment agreement;

* * * * *

(5) A crop policy already in effect at the time you become ineligible will not be terminated until the termination date for that crop policy (If you are ineligible, you may not obtain any crop insurance under the Act until payment is made in full, you execute an agreement to repay the debt and make payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate and any indemnities paid subsequent to that date must be repaid);

(6) If you execute an agreement to pay the debt and fail to make any scheduled payment, all of your policies will be terminated effective on the termination date for the crop year prior to the crop year in which you failed to make the scheduled payment and no indemnity will be due for that year (You will no longer be eligible to obtain crop insurance by execution of an agreement to pay the debt. You will be ineligible for crop insurance until the debt is paid in full or you file a petition to discharge the debt in bankruptcy. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate and any indemnities paid subsequent to that date must be repaid);

(7) Once the policy is terminated, it cannot be reinstated for the current crop year unless the termination was in error because you did not owe any amounts or you paid the amounts owed on or before the termination date;

* * * * *

(9) If we deduct the amount due from an indemnity owed to you, the date of payment for the purpose of determining your eligibility will be the date that you and we sign the claim for indemnity (If the claim for indemnity is not signed by you and us by the termination date or if the claim amount does not satisfy the debt, all amounts owed must still be paid by the termination date or the policy will be terminated and you will not be eligible for insurance in accordance with this paragraph).

(10) For example, if crop A, with a termination date of October 31, 2001, and crop B, with a termination date of March 15, 2002, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 2001, and crop A's policy is terminated as of that date. Crop B's policy is terminated as of March 15, 2002. If you enter an agreement to repay the debt on April 25, 2002, the earliest date by which you can obtain crop insurance for crop A is to apply for crop insurance by the October 31, 2002, sales closing date and for crop B is to apply for crop insurance by the March 15, 2003, sales closing date. If you fail to make a payment which was scheduled to be made on April 1, 2003, your policy will terminate as of October 31, 2002, for crop A, and March 15, 2003, for crop B, and no indemnity will be due for that crop year for either crop. You will not be eligible to apply for crop insurance for any crop until after the debt is paid in full or you file a petition to discharge the debt in bankruptcy.

(11) If you are determined to be ineligible under section 18(e), all persons with a substantial beneficial interest in you are also ineligible until you become eligible again.

19. Contract Changes.

* * * * *

(b) Any changes in policy provisions, expected county yields, maximum amounts of protection, premium rates, and program dates will be posted on the RMA Web site at *http://www.rma.usda.gov/* or a successor website or filed with the Office of the Federal Register not later than the contract change date contained in the Crop Provisions. This information will be available to you from your local crop insurance provider.

* * * * *

21. Indemnity and Premium Limitations.

(a) With respect to acreage where you are due a total or partial loss for your first crop in the crop year, except in the case of double cropping described in section 21(c):

(1) You may elect to not plant or to plant and not insure a second crop on the same acreage for harvest in the same crop year and collect an indemnity payment that is equal to 100 percent of the insurable loss for the first crop; or

(2) You may elect to plant and insure a second crop on the same acreage for harvest in the same crop year and:

(i) Collect an indemnity payment that is 35 percent of the insurable loss for the first crop;

(ii) Be responsible for a premium for the first crop that is commensurate with the amount of the indemnity paid for the first crop; and

(iii) If the second crop does not suffer an insurable loss:

(A) Collect an indemnity payment for the other 65 percent of insurable loss that was not previously paid under section 21(a)(2)(i); and

(B) Be responsible for the remainder of the premium for the first crop that you did not pay under section 21(a)(2)(ii).

(b) The reduction in the amount of indemnity and premium specified in section 21(a)(2)(i) and (ii) will apply even if another person plants the second crop on any acreage where the first crop was planted. The reduction will also apply if a volunteer crop is harvested or a cover crop is hayed, grazed, or otherwise harvested. In the event you receive cash rent for any acreage on which you had a partial or total loss to a first crop, any indemnity you receive for the first crop will be limited to 35 percent of the insurable loss for the first crop, regardless of whether or not a second crop is planted or a second crop suffers an insurable loss and your premium will be commensurate with the amount of indemnity paid. This reduction will not apply if the double-cropping requirements described in section 21(c) have been met.

(c) You may receive a full indemnity for a first crop when a second crop is planted on the same acreage in the same crop year, regardless of whether or not the second crop is insured or sustains an insurable loss, if each of the following conditions are met:

(1) It is an established practice in the area to plant at least two crops for harvest in the same crop year;

(2) The second or more crops are customarily planted after the first crop for harvest on the same acreage in the same crop year in the area;

(3) Additional coverage insurance under the authority of the Act is available on the two or more crops that are double-cropped; and

(4) You provide records acceptable to us of acreage and production that show you have

double-cropped acreage in at least two of the last four crop years in which the first crop was planted, or that show the applicable acreage was double-cropped in at least two of the last four crop years in which the first crop was grown on it.

(d) The receipt of a full indemnity on both crops that are double-cropped is limited to the number of acres for which you can demonstrate you have double-cropped or that have been historically double-cropped as specified in section 21(c).

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

13. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

14. Revise § 457.2(d) to read as follows:

§ 457.2 Availability of Federal crop insurance.

* * * * *

(d)(1) Except as specified in paragraph (c) of this section, if a person has more than one contract under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple contracts of insurance were without the fault of the person. If the multiple contracts of insurance are shown to be without the fault of the person and:

(i) One contract is an additional coverage policy and the other contract is a Catastrophic Risk Protection policy, the additional coverage policy will apply if both policies are with the same insurance provider, or if not, both insurance providers agree, and the Catastrophic Risk Protection policy will be canceled (If the insurance providers do not agree, the policy with the earliest date of application will be in force and the other contract will be canceled); or

(ii) Both contracts are additional coverage policies or both are Catastrophic Risk Protection policies, the contract with the earliest signature date on the application will be valid and the other contract on that crop in the county for that crop year will be canceled, unless both policies are with the same insurance provider and the insurance provider agrees otherwise or both policies are with different insurance providers and both insurance providers agree otherwise.

(2) No liability for indemnity or premium will attach to the contracts canceled as specified in paragraphs (d)(1)(i) and (ii) of this section.

* * * * *

§ 457.6 [Removed and reserved]

15. Remove and reserve § 457.6.

16. Amend § 457.8, Common Crop Insurance Policy Basic Provisions, as follows:

a. Revise the first paragraph of both the ''FCIC Policies'' and ''Reinsured Policies'' sections that precede the Basic Provisions Terms and Conditions;

b. Amend section 1 by adding definitions for ''annual crop,'' ''average yield,'' ''border,'' ''buffer zone,'' ''certified organic acreage,'' ''certifying agent,'' ''cover crop,'' ''disinterested third party,'' ''double-crop,'' ''first crop,'' ''liability,'' ''organic farming practice,'' ''organic plan,'' ''organic standards,'' ''perennial crop,'' ''prohibited substance,'' ''second crop,'' ''Secretary,'' ''sustainable farming practice'' and ''transitional acreage.'' Further amend section 1 to delete the definitions of ''loss, notice of'' and ''damage, notice of.'' Also amend section 1 to revise the definitions of ''actuarial documents,'' ''agricultural commodity,'' ''contract change date,'' ''crop year,'' ''delinquent account,'' ''earliest planting date,'' ''enterprise unit,'' ''field,'' ''good farming practices,'' ''non-contiguous,'' ''practical to replant,'' ''prevented planting,'' ''price election,'' ''replanting,'' ''substantial beneficial interest,'' and ''whole farm unit.''

c. Revise section 2(b);

d. Revise section 2(e) introductory text;

e. Revise section 2(e)(3);

f. Revise section 2(e)(5);

g. Revise section 2(e)(6);

h. Revise section 2(e)(7);

i. Revise section 2(e)(9);

j. Revise section 2(e)(10);

k. Add a new section 2(e)(11);

l. Revise section 3(b);

m. Revise section 3(d);

n. Redesignate sections 3(e) through (h) as sections 3(g) through (j), respectively and add new sections 3(e) and (f);

o. Amend the last sentence in redesignated section 3(g) by inserting a comma '','' after the word insurance;

p. Revise redesignated section 3(i);

q. Revise section 4(b);

r. Remove and reserve section 5;

s. Revise section 6(d);

t. Amend section 6(e) by replacing ''6(g)'' with ''6(f)'';

u. Revise sections 6(f) and (g);

v. Revise sections 7(a), (b) and (d);

w. Delete sections 7(e)(5) and (6) and redesignate section 7(e)(7) as section 7(e)(5);

x. Add section 7(f);

y. Revise sections 8(b)(1) and (2);

z. Revise sections 9(a)(1) introductory text and 9(a)(1)(i)(A);

aa. Amend section 9(a)(1)(i)(B) by deleting the word ''soybean'' and replacing it with the word ''soybeans'' and adding the word ''or'' after the semicolon;

bb. Remove section 9(a)(1)(i)(C) and redesignate section 9(a)(1)(i)(D) as section 9(a)(1)(i)(C).

cc. Amend section 9(a)(1)(ii) by deleting '' or'' at the end of the text;

dd. Amend section 9(a)(1) by redesignating section 9(a)(1)(iii) as section 9(a)(1)(iv) and adding a new section 9(a)(1)(iii);

ee. Amend section 9(a) by redesignating sections 9(a)(3) through 9(a)(6) as sections 9(a)(4) through 9(a)(7), respectively and adding a new section 9(a)(3);

ff. Revise redesignated section 9(a)(4);

gg. Amend redesignated section 9(a)(6) by deleting ''or'' at the end of the text;

hh. Amend redesignated section 9(a)(7) by deleting the period ''.'' at the end of the text and replacing it with a semicolon '';'';

ii. Amend section 9(a) by adding new sections 9(a)(8) and (9);

jj. Amend section 10(a)(2) by adding two new sentences at the end, ''For each landlord that is an individual, you must report the landlord's social security number. For each landlord that is an entity other than an individual or for a trust administered by the Bureau of Indian Affairs, you must report each landlord's social security number or employer identification number.'';

kk. Revise section 10(b);

ll. Amend section 12 by revising the introductory text and sections 12(c) and (d) and adding a new section 12(f);

mm. Amend section 12(e) by replacing the period at the end with ''; or'';

nn. Amend section 14 by revising the section heading, revising (Your Duties) sections 14(a) introductory text, 14(a)(2) and (3), 14(c), and 14(d), redesignating section 14(f) as 14(g) and adding sections 14(f) and 14(h);

oo. Amend section 14 (Our Duties) by revising sections 14(a)(1) and (2), redesignating section 14(a)(3) as 14(a)(4), and adding a new section 14(a)(3);

pp. Amend section 14 (Our Duties) by deleting section 14(d);

qq. Amend section 15 by revising the section heading, revising section 15(b), deleting section 15(e), and adding new sections 15(e) through (j);

rr. Amend section 16(b)(3) by adding the word ''insured'' between the words ''from'' and ''acreage'';

ss. Revise section 17(a)(1) introductory text;

tt. Revise section 17(c);

uu. Amend section 17(d)(1) by deleting the word ''and'' in the first sentence and replacing it with the word ''or'';

vv. Amend section 17(d)(2) by replacing the word ''probability'' with the word ''expectation'';

ww. Amend section 17(e)(1) by deleting ''or (5)'' at the end of the first sentence;

xx. Amend the first sentence of section 17(e)(1)(i)(A) by replacing the words ''reported for insurance'' with ''insured acres reported'', replacing the words ''substitute crop other than an approved cover'' with ''second crop,'' and adding ''unless you meet the double-cropping requirements in section 17(f)(4)'' before the closing parentheses;

yy. Amend section 17(e)(1)(i)(B) by adding the following new sentences between the current second and third sentence: ''If, on the sales closing date, you do not have any acreage in a county and you subsequently obtain acreage in accordance with the conditions in section 17(e)(1)(i)(A), you must submit your intended acreage report within 10 days of the time you obtain the acreage. The new acreage will not be eligible for prevented planting if a cause of loss has occurred that could prevent planting at the time the acreage was obtained.'';

zz. Revise section 17(e)(1)(ii)(A);

aaa. Revise sections 17(f)(1) through (5);

bbb. Delete current section 17(f)(6) and redesignate sections 17(f)(7) through (12) as 17(f)(6) through (11) respectively;

ccc. Revise redesignated section 17(f)(6);

ddd. Amend redesignated section 17(f)(10) by deleting the word ''or'' at the end of that subsection;

eee. Amend redesignated section 17(f)(11) by replacing the period at the end of that section with ''; or'';

fff. Add a new section 17(f)(12);

ggg. Amend section 17(h) by adding the following sentence between the current first and second sentence, ''Administrative fees will not be charged for a crop if switching the prevented planting crop acreage in accordance with this section results in an extra administrative fee that you would not have been required to pay had the acreage not been switched to the other crop.'';

hhh. Amend section 17(h)(2) by adding the following sentence at the end of the current text, ''However, if you were prevented from planting any non-irrigated crop acreage and you do not have any remaining eligible acreage for that crop and you do not have any other crop remaining with eligible acres under a non-irrigated practice, no prevented planting payment will be made for the acreage.'';

iii. Amend section 18 by revising sections 18(c) through (e) and adding sections 18(f) and (g);

jjj. Revise section 20. Appeals (For FCIC policies);

kkk. Revise section 20. Arbitration (For reinsured policies);

lll. Revise section 21;

mmm. Revise section 22(a);

nnn. Revise section 24(b) (For FCIC policies);

ooo. Revise sections 24(a) and (e) (For reinsured policies);

ppp. Revise section 25(c);

qqq. Amend section 26 by deleting the words ''Payment and'' in the section heading, deleting section 26(a) and removing the subsection (b) designation;

rrr. Amend section 30 by adding the following sentence between the first and second sentence, ''If you receive any funds from someone else, you must repay us the amount you received from us, not to exceed the amount of indemnity paid to you.'';

sss. Revise section 34(a)(2)(iii);

ttt. Amend section 34(a)(3)(i) by deleting ''and'' at the end of the text;

uuu. Amend section 34(a)(3)(ii) by deleting the period at the end of the text and replacing it with ''; and'';

vvv. Revise section 34(a)(3) by adding section 34(a)(3)(iii);

www. Amend sections 34(b)(1) and (3);

xxx. Amend section 34(c)(1) by deleting '' and'' at the end of the text;

yyy. Revise section 34(c)(2);

zzz. Amend section 34(c) by adding section 34(c)(3);

aaaa. Revise section 36; and

bbbb. Add a new section 37.

The revised and added sections read as follows:

§ 457.8 The application and policy.

* * * * *

[FCIC Policies]

This is an insurance policy issued by the Federal Crop Insurance Corporation (FCIC), a United States government agency. The provisions of the policy are published in the **Federal Register** and codified at 7 CFR chapter IV under the **Federal Register** Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance provider, an agent or any other agent or employee of the crop insurance provider, FCIC, the Risk Management Agency (RMA) or the Farm Service Agency (FSA). Procedures (including handbooks, manuals, and directives) issued by us and published on the RMA Web site at *http://www.rma.usda.gov/* or a successor website will be used in the administration of this policy. If there is a conflict between the provisions of your policy, the Federal Crop Insurance Act (Act), or the regulations published at 7 CFR chapter IV and the procedures issued by us, the terms of your policy, the Act, or such regulations control.

* * * * *

[Reinsured Policies]

This insurance policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act (Act) (7 U.S.C. 1501 *et seq.*). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy are published in the **Federal Register** and codified at 7 CFR chapter IV under the **Federal Register** Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance provider, an agent or any other agent or employee of the crop insurance provider, FCIC, the Risk Management Agency (RMA) or the Farm Service Agency (FSA). Procedures (including handbooks, manuals, and directives) issued by FCIC and published on the RMA Web site at *http://www.rma.usda.gov/* or a successor website will be used in the administration of this policy. If there is a conflict between the provisions of your policy, the Federal Crop Insurance Act (Act), or the regulations published at 7 CFR chapter IV and the procedures issued by FCIC, the terms of your policy, the Act, or such regulations control. In the event that we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by FCIC. No state guarantee fund will be liable for your loss.

* * * * *

Terms and Conditions

Basic Provisions

1. Definitions.

* * * * *

Actuarial documents. The material for the crop year which is available for public inspection in your agent's office and published on RMA's Web site at *http://www.rma.usda.gov/* or a successor website, and which shows the amounts of insurance or production guarantees, coverage levels, information needed to determine premium rates, premium adjustment percentages, practices, types, insurable acreage, and other related information regarding crop insurance in the county.

* * * * *

Agricultural commodity. Any crop or other commodity produced, regardless of whether or not it is insurable.

Annual crop. An agricultural commodity that normally must be planted each year.

* * * * *

Average yield. The actual production history (APH) yield determined in accordance with 7 CFR part 400, subpart G, excluding any adjustments elected by you under section 36.

* * * * *

Border. A readily identifiable distinction between two areas of land (*e.g.*, different

planting patterns or plant densities, or area where no crop is planted, etc.).

Buffer zone. A parcel of land that separates agricultural commodities grown under organic practices from agricultural commodities grown under non-organic practices, and which is sufficient in size, as specified in your organic plan, to prevent the possibility of unintended contact by prohibited substances or organisms.

* * * * *

Certified organic acreage. Acreage in the certified organic farming operation that has been certified by a certifying agent as conforming to organic standards in accordance with 7 CFR part 205.

Certifying agent. A private or governmental entity accredited by the Secretary, for the purpose of certifying a production, processing or handling operation as organic.

* * * * *

Contract change date. The calendar date by which changes to policy provisions will be made in accordance with section 4.

* * * * *

Cover crop. A crop that is commonly planted in the area for erosion control or green manure and is generally left in place for one growing season.

* * * * *

Crop year. The period within which the insured crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the insured crop is normally harvested, unless otherwise specified in the Crop Provisions.

* * * * *

Delinquent account. Any account you have with us in which administrative fees or premiums, and interest on those amounts, is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, and the interest on such amounts, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Disinterested third party. A person or entity that does not have any financial or other interest in the insured such as a familial or other personal relationship.

Double-crop. The practice of producing two or more crops for harvest on the same acreage in the same crop year.

Earliest planting date. A calendar date contained in the Special Provisions that defines the earliest date you may plant an insured agricultural commodity and qualify for a replanting payment if such payments are authorized by the Crop Provisions.

* * * * *

Enterprise unit. All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. An enterprise unit must consist of planted acreage of the same insured crop in:

(1) Two or more basic units that are located in two or more separate sections, section equivalents, or FSA farm serial numbers; or

(2) Two or more optional units established by separate sections, section equivalents, or FSA farm serial numbers.

Field. All acreage of tillable land within a natural or artificial boundary (*e.g.*, roads, waterways, fences, etc.). Different planting patterns or planting different crops do not create separate fields.

* * * * *

First crop. With respect to a single crop year and any specific acreage, the first instance that an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act. For example, if winter wheat that is not insured is planted on acreage that is later planted to soybeans that are insured, the first crop would be soybeans. If the winter wheat was insured, it would be the first crop.

* * * * *

Good farming practices. The farming practices that are commonly used in the area where the crop is produced, including sustainable farming practices, that are recognized by FCIC to be necessary for the crop to make normal progress toward maturity, produce at least the yield used to determine the production guarantee or amount of insurance, and be compatible with the agronomic and weather conditions in the area. If you use a farming practice not commonly used in the area, you should contact us to determine if such practice is insurable.

* * * * *

Liability. The dollar amount of insurance coverage used in the premium computation for the applicable crop.

* * * * *

Non-contiguous. Acreage farmed by you that is separated from other acreage that is farmed by you by land that is neither owned by you nor rented by you for cash or a crop share, except that acreage farmed by you that is only separated by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Organic farming practice. A system of plant production practices approved by a certifying agent in accordance with 7 CFR part 205.

Organic plan. A written plan that describes the organic farming practices that you and a certifying agent agree upon annually or at such other times as prescribed by the certifying agent.

Organic standards. Standards in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 *et seq.*) and 7 CFR part 205.

Perennial crop. An agricultural commodity that normally does not have to be planted each year.

* * * * *

Practical to replant. Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. It will be considered to be practical to replant regardless of the cost or availability of seed or plants.

* * * * *

Prevented planting. The inability to plant the insured crop by the final planting date due to excess moisture or because weather conditions are such that the seed would not be expected to germinate or produce a crop. You may also be eligible for a prevented planting payment if you are unable to plant the insured crop with the proper equipment within the late planting period.

Price election. The amounts contained in the Special Provisions or an addendum thereto, or in a written agreement if a price election is not provided in the Special Provisions or addendum thereto, to be used for computing the value per pound, bushel, ton, carton, or other applicable unit of measure for the purposes of determining premium and indemnity under the policy.

* * * * *

Prohibited substance. Any biological, chemical, or other agent that is prohibited from use or is not provided for use in the organic standards for use on any certified organic, organic, transitional or buffer zone acreage.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the same insured acreage.

* * * * *

Second crop. With respect to a single crop year, any agricultural commodity that is planted immediately following a first crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first crop, except the term does not extend to a replanting of a first crop when it is required by the policy. A cover crop, planted after a first crop, that is hayed, grazed or harvested will be considered a second crop.

Secretary. The Secretary of Agriculture, USDA.

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Substantial beneficial interest. An interest held by any person of at least 10 percent in the applicant or insured. All spouses and children that reside in the same household will be considered to have a substantial beneficial interest in the applicant or insured unless the spouse or children can prove that the acreage farmed by the applicant or insured is a totally separate farming operation in accordance with FCIC issued procedure and that the spouse or children derive no benefit from the farming operation of the insured or applicant.

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Sustainable farming practice. A system or process for producing an agricultural commodity recognized by the Natural Resources Conservation Service (NRCS) or a successor agency as likely to conserve or enhance natural resources and the environment.

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Transitional acreage. Acreage on which organic farming practices are being followed

but that does not yet qualify to be designated as organic acreage.

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Whole farm unit. All insurable acreage of two or more insured crops planted in the county in which you have a share on the date coverage begins for each crop for the crop year. All crops for which the whole farm unit structure is available must be included in the whole farm unit. No one insured crop can constitute more than 75.0 percent of the total liability of all insured crops in the whole farm unit, and all crops in the unit must be insured under the same plan of insurance and with the same insurance provider.

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2. Life of Policy, Cancellation, and Termination.

* * * * *

(b) Your application for insurance must contain all the information required by us to insure the crop.

(1) Applications that do not contain all social security numbers and employer identification numbers of the applicant and all social security numbers of individuals with a substantial beneficial interest in the applicant and shares, as applicable, coverage level, price election, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable.

(2) If an entity has an interest of 10 percent or more in the insured or applicant, the social security number of all individuals with an interest in the entity must be provided.

(3) Notwithstanding any provision contained in 7 CFR part 400, subpart U, if we discover that a person with a substantial beneficial interest has failed to provide a social security number or if a person with a substantial beneficial interest in the insured crop is ineligible:

(i) For the year of application, the application will not be accepted for the insured crop for which the social security numbers were not provided or the person was ineligible; or

(ii) For any crop year after the year of application, no indemnity will be due for the insured crop for which the social security numbers were not provided or the person was ineligible. Even though no indemnity is due, you will still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned. No administrative fee will be due for such crops.

* * * * *

(e) The premium, administrative fee, and any other amount due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions or the date contained in a notice to you of overpayment or any payment agreement. Termination may affect your eligibility for benefits under other USDA programs. Any amount due to us for any crop insured by us under the authority of the Act will be deducted from any indemnity due you for this or any other crop insured with us. All administrative fees and related interest are owed to FCIC and failure to timely pay such fees when due may also subject you to other administrative offsets. If any premium, administrative fee, and any other amount due, plus any accrued interest, is not paid on or before the termination date for the crop on which the amount is due:

* * * * *

(3) Ineligibility will be effective on:

(i) The date that a policy was terminated for the crop for which you failed to pay premium, an administrative fee, and any related interest owed;

(ii) The payment date contained in any notification of indebtedness for any overpaid indemnity, if you fail to pay the amount owed by such due date; or

(iii) The termination date for the crop year prior to the crop year in which a scheduled payment is due under a payment agreement if you fail to pay the amount owed by any payment date in such payment agreement;

* * * * *

(5) A crop policy already in effect at the time you become ineligible will not be terminated until the termination date for that crop policy (If you are ineligible, you may not obtain any crop insurance under the Act until payment is made in full, you execute an agreement to repay the debt and make payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate and any indemnities paid subsequent to that date must be repaid);

(6) If you execute an agreement to pay the debt and fail to make any scheduled payment, all of your policies will be terminated effective on the termination date for the crop year prior to the crop year in which you failed to make the scheduled payment and no indemnity, replanting payment or prevented planting payment will be due for that year (You will no longer be eligible to obtain crop insurance by execution of an agreement to pay the debt. You will be ineligible for crop insurance until the debt is paid in full or you file a petition to discharge the debt in bankruptcy. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate and any payments and indemnities paid subsequent to that date must be repaid);

(7) Once the policy is terminated, it cannot be reinstated for the current crop year unless the termination was in error because you did not owe any amounts or you paid the amounts owed on or before the termination date;

* * * * *

(9) If we deduct the amount due from an indemnity or prevented planting payment owed to you, the date of payment for the purpose of determining your eligibility will be the date that you and we sign the claim for indemnity (If the claim for indemnity is not signed by you and us by the termination date or if the claim amount does not satisfy the debt, all amounts owed must still be paid by the termination date or the policy will be terminated and you will not be eligible for insurance in accordance with this paragraph).

(10) For example, if crop A, with a termination date of October 31, 2001, and crop B, with a termination date of March 15, 2002, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 2001, and crop A's policy is terminated as of that date. Crop B's policy is terminated as of March 15, 2002. If you enter an agreement to repay the debt on April 25, 2002, the earliest date by which you can obtain crop insurance for crop A is to apply for crop insurance by the October 31, 2002, sales closing date and for crop B is to apply for crop insurance by the March 15, 2003, sales closing date. If you fail to make a payment that was scheduled to be made on April 1, 2003, your policy will terminate as of October 31, 2002, for crop A, and March 15, 2003, for crop B, and no indemnity or prevented planting payment will be due for that crop year for either crop. You will not be eligible to apply for crop insurance for any crop until after the debt is paid in full or you file a petition to discharge the debt in bankruptcy.

(11) If you are determined to be ineligible under section 2(e), all persons with a substantial beneficial interest in you are also ineligible until you become eligible again.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(b) You may select only one coverage level from among those offered by us for each insured crop. You may change the coverage level, price election, or amount of insurance for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. However, you may not increase your coverage level or your price election if a cause of loss that could or would result in an insured loss has occurred prior to the time you request the increase. Since the price election or amount of insurance may change each year, if you do not select a new price election or amount of insurance on or before the sales closing date, we will assign a price election or amount of insurance which bears the same relationship to the price election schedule as the price election or amount of insurance that was in effect for the preceding year. (For example: If you selected a 100 percent price election for the previous crop year and you do not select a new price election for the current crop year, we will assign a 100 percent price election for the current crop year.)

* * * * *

(d) It is your responsibility to accurately report all information that is used to determine your average yield. You may certify this information on your production report. However, if you file a claim for any unit, you must provide written verifiable records for that unit for at least the three most recent crop years of your production history to support the information you have certified (if the yields for the three years are not correct, we will require records for all years of your production history for the loss unit). If you misreport any material information used to determine your approved yield, we will:

(1) Correct the unit structure, if necessary;

(2) Retain the average yield for the current crop year if the information you reported results in an average yield lower than the correct yield or not greater than 105 percent of the correct yield; or

(3) Deny the claim for indemnity or replanting or prevented planting payment on the unit for which the information was misreported, if the information you reported results in an average yield greater than 105 percent of the correct yield. Even though there is no indemnity or replanting or prevented planting payment due, you will still be required to pay the premium due under the policy for the unit. The premium amount used for this purpose will be based on the corrected average yield.

(e) We will revise your approved yield when:

(1) The approved yield for the unit is inconsistent with other units of the insured crop in your farming operation, surrounding farms with acreage with similar characteristics and farming practices, or other persons in which you have a share, unless you provide evidence that will account for the discrepancy in the production of such units (The inconsistent yield will be revised to an amount that is consistent with other units in your farming operation, surrounding farms with acreage with similar characteristics and farming practices, or units of other persons in which you have a share);

(2) The production reported (appraised or harvested) for the unit is obtained from an average number of acres that is less than 25 percent of the current acreage in the unit (Representative samples will not be used to establish the average yield except when representative samples are used to calculate any indemnity paid to you); or

(3) You change your farming practice within a unit during a growing season or between crop years (For example, you have actual production history for a non-irrigated crop, but you decide to partially irrigate the crop).

(f) If you elect to plant a second crop on acreage where the first crop was prevented from being planted, you will receive a yield equal to 60 percent of the actual production history (APH) yield for the first crop to calculate your average yield for subsequent crop years (not applicable to crops if the APH is not the basis for the insurance guarantee). If the unit contains both prevented planted and planted acreage of the same crop, the yield for the unit will be determined by:

(1) Multiplying the number of insured prevented planting acres by its respective yield determined in accordance with this subsection;

(2) Adding the totals from section 3(f)(1) to the amount of appraised or harvested production for all of the insured planted acreage; and

(3) Dividing the total in section 3(f)(2) by the total number of acres in the unit.

* * * * *

(i) Hail and fire coverage may be excluded from the covered causes of loss for an insured crop only if you select additional coverage of not less than 65 percent of the approved yield indemnified at the 100 percent price election, or a comparable coverage as established by FCIC.

* * * * *

4. Contract Changes.

* * * * *

(b) Any changes in policy provisions, amounts of insurance, premium rates, program dates, and price elections (except as specified in section 3) will be posted on the RMA Web site at *http://www.rma.usda.gov/* or a successor website or filed with the Office of the Federal Register not later than the contract change date contained in the Crop Provisions. This information will be available to you from your local crop insurance provider.

* * * * *

5. [Reserved]

6. Report of Acreage.

* * * * *

(d) You may not revise your acreage report for any planted acreage after the acreage reporting date without our consent. If you report any prevented planting acreage, you cannot revise such acreage after the report is initially submitted to us without our consent.

* * * * *

(f) You should verify all information on the acreage report prior to submitting it to us. If you:

(1) Report information that results in a liability amount 95.0 to 105.0 percent of the corrected liability for a unit, any indemnity, replanting or prevented planting payment will be based on the corrected liability; or

(2) Fail to report any unit, or you report information that results in a liability amount for the unit lower than 95.0 percent or higher than 105.0 percent of the corrected amount, no indemnity, replanting or prevented planting payment will be paid. Even though there is no indemnity or replanting or prevented planting payment due, you will still be required to pay the premium due under the policy for the unit. The premium amount used for this purpose will be based on the corrected liability.

(g) If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

* * * * *

7. Annual Premium and Administrative Fees.

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for the premium and administrative fee not earlier than the premium billing date specified in the Special Provisions.

(b) Any premium or administrative fees owed by you may be offset from an indemnity or prevented planting payment due you in accordance with section 2(e).

* * * * *

(d) The premium will be computed using the price election or amount of insurance you elect or that we assign in accordance with section 3(b). The information needed to determine the premium rate and any premium adjustment percentages that may apply are contained in the actuarial documents or an approved written agreement.

* * * * *

(f) If the amount of premium (gross premium less premium subsidy paid on your behalf by FCIC) and administrative fee you are required to pay for any acreage exceeds the liability for the acreage, coverage for those acres will not be provided (no premium or administrative fee will be due and no indemnity will be paid for such acreage).

8. Insured Crop.

* * * * *

(b) * * *

(1) If the information necessary to insure the crop or a specific practice, type, class, or variety of it (price election, premium rate information, yields, etc.) is not included in the actuarial documents or in a written agreement (A written agreement may be used to provide a premium rate other than that specified in the actuarial documents for high risk land only);

(2) Grown using a practice or a type, class or variety that is not ≤adapted to the area or is expressly excluded by the policy (Just because a farming practice, type, class, or variety is not excluded by the policy does not mean that it is insurable. If any farming practice, type, class, or variety is not established or widely used in the area, it may not be considered a good farming practice);

* * * * *

9. Insurable Acreage.

(a) * * *

(1) That has not been planted and harvested within one of the three previous crop years unless you can show that:

(i) * * *

(A) In at least 2 of the previous 3 crop years to comply with any other USDA program;

* * * * *

(iii) Such acreage constitutes 5 percent or less of the insured planted acreage in the unit; or

* * * * *

(3) For which the actuarial documents do not provide the information necessary to determine the premium rate, unless insurance is allowed by a written agreement;

(4) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted as soon as it is practical to do so;

* * * * *

(8) Of a second crop if you elect not to insure such acreage when there is an insurable loss for planted acreage of a first crop and you intend to collect an unreduced indemnity for the first crop acreage in accordance with section 15 (You must make the election not to insure acreage of a second crop at the time the first crop acreage is released by us and you must report the crop acreage that will not be insured by the applicable acreage reporting date); or

(9) Of a crop that is planted following a second crop or following an insured crop that is prevented from being planted after a first crop, unless it is an established practice in the area to plant three or more crops for harvest on the same acreage in the same crop year, and additional coverage insurance

provided under the authority of the Act is offered for the third or subsequent crop in the same crop year. Insurance will only be provided for a third or subsequent crop as follows:

(i) You must provide records acceptable to us that show:

(A) You have produced and harvested the insured crop as a third or later crop on the same acreage in the same crop year in at least two of the last four years in which you produced the insured crop; or

(B) The applicable acreage has had three or more crops produced and harvested on it in at least two of the last four years in which the insured crop was grown on it; and

(ii) The amount of insurable acreage will not exceed 100 percent of the greatest number of acres for which you provide the records required in section 9(a)(9)(i)(A) or (B).

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10. Share Insured.

* * * * *

(b) We will include in your share or under your policy for any insured crop, any acreage or interest:

(1) Reported by or for your spouse, child, or any member of your household, unless you can prove that the acreage farmed by your spouse, child, or any member of your household is a totally separate farming operation in accordance with FCIC approved procedures; or

(2) Held by a corporation, partnership, association, or other legal entity in which you have a share if the other shareholders, stakeholders, or persons affiliated with the corporation, partnership, association, or other legal entity are all members of your family or household or are the same persons that are the shareholders, stakeholders, or persons affiliated with the other corporation, partnership, association, or other legal entity in which you are a shareholder, stakeholder or otherwise affiliated. For example, if you are in one partnership with John Doe and Jane Doe that insures 100 acres and you enter a different partnership with John Doe and Jane Doe, that rents another 100 acres, all 200 acres must be insured under the original partnership policy.

* * * * *

12. Causes of Loss.

The insurance provided is against only unavoidable loss directly caused by specific causes of loss contained in the Crop Provisions. All specified causes of loss, except where the Crop Provisions specifically cover loss of revenue due to a reduced price in the marketplace, must be due to a natural disaster. All other causes of loss, including but not limited to the following, are NOT covered:

* * * * *

(c) Water contained by structures designed to channel or contain water such as levee systems, dams, or reservoir projects on any acreage, or water released from such structures on any acreage on which there is a water easement;

(d) Failure or breakdown of the irrigation equipment or facilities unless the failure or breakdown is due to a cause of loss specified in the Crop Provisions (If damage is due to an insured cause, you must make all reasonable efforts to restore the equipment or facilities to proper working order in a timely manner unless we determine it is not practical to do so);

* * * * *

(f) Any cause of loss that occurs during the insurance period but the damage is not discoverable until after the crop is placed in storage, unless expressly authorized in the Crop Provisions.

* * * * *

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

Your Duties—

(a) In case there has been a cause of loss that may have affected the amount of production or quality of the insured crop, you must:

* * * * *

(2) Give us notice, by unit for each insured crop, within 72 hours after the occurrence of the cause of loss (For continuing causes of loss such as drought or excess moisture, you must give us notice within 72 hours of your initial discovery that the crop may have suffered any damage);

(3) If provided for in the Crop Provisions, leave representative samples intact of the unharvested crop if you report damage within 15 days of the time you begin harvest of the damaged unit (The samples must be left intact until we inspect them or until 15 days after completion of harvest on the unit, whichever is earlier. Unless specified otherwise in the Crop Provisions or Special Provisions, the samples must be 10 feet wide and extend the entire length of each field in the unit. The period to retain representative samples may be extended if it is necessary to accurately determine the loss. You will be notified in writing of any such extension);

* * * * *

(c) In addition to complying with the other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period unless you request an extension in writing and we agree to such extension. The claim for indemnity must include all information we require to settle the claim.

(d) You must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured (In addition, if you insure any acreage that may be subject to an indemnity reduction as specified in section 15(e), you must provide separate records of production from such acreage for all insured crops planted on the acreage. For example, if you have an insurable loss on 10 acres of wheat and subsequently plant cotton on the same 10 acres, you must provide records of the wheat and cotton production on the 10 acres separate from any other wheat and cotton production that may be planted in the same unit. If you fail to provide such records, we will allocate the production of each crop to the acreage in proportion to our liability for the acreage); and

(2) Upon our request, or that of any USDA employee, submit to an examination under oath.

* * * * *

(f) In the event you are prevented from planting an insured crop which has prevented planting coverage, you must notify us within 72 hours after:

(1) The final planting date, if you do not intend to plant the insured crop during the late planting period or if a late planting period is not applicable; or

(2) You determine you will not be able to plant the insured crop within any applicable late planting period.

* * * * *

(h) Failure to comply in a timely manner with all the requirements of this section will result in denial of your claim for indemnity or prevented planting or replant payment for the acreage in which failure occurred. Even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit.

Our Duties—

(a) * * *

(1) We reach agreement with you, including establishment of the amount of production or the value of any production from acreage on which a second crop is planted:

(2) Completion of arbitration, reconsideration of determinations regarding good farming practices or any other appeal that results in an award in your favor, unless we exercise our right to appeal such decision;

(3) Completion of any investigation by the USDA of your current or any past claim for indemnity if no evidence of wrongdoing has been found (If any evidence of wrongdoing has been discovered, the amount of any indemnity overpayment as a result of such wrongdoing may be offset from any indemnity owed to you); or

* * * * *

15. Production Included in Determining an Indemnity and Payment Reductions.

* * * * *

(b) Appraised production will be used to calculate your claim only if you are not going to harvest your acreage. Such appraisals may be conducted after the end of the insurance period. If your claim is based on appraised production and you later decide to harvest the acreage, you must provide us with the amount of harvested production. Claims will be adjusted if the harvested production exceeds the appraised production and you will be required to repay any overpaid indemnity.

* * * * *

(e) With respect to acreage where you have suffered a total or partial loss to your first crop in the crop year, except in the case of double cropping described in section 15(h):

(1) You may elect to not plant or to plant and not insure a second crop on the same acreage for harvest in the same crop year and collect an indemnity payment that is equal to 100 percent of the insurable loss for the first crop; or

(2) You may elect to plant and insure a second crop on the same acreage for harvest in the same crop year and:

(i) Collect an indemnity payment that is 35 percent of the insurable loss for the first crop;

(ii) Be responsible for a premium for the first crop that is commensurate with the amount of the indemnity paid for the first crop; and

(iii) If the second crop does not suffer an insurable loss:

(A) Collect an indemnity payment for the other 65 percent of insurable loss that was not previously paid under section 15(e)(2)(i); and

(B) Be responsible for the remainder of the premium for the first crop that you did not pay under section 15(e)(2)(ii).

(f) With respect to acreage where you were prevented from planting the first crop in the crop year, except in the case of double cropping described in section 15(h):

(1) If a second crop is not planted on the same acreage for harvest in the same crop year you may collect a prevented planting payment that is equal to 100 percent of the prevented planting payment for the acreage for the first crop; or

(2) If a second crop is planted on the same acreage for harvest in the same crop year and:

(i) Provided that the second crop is not planted on or before the final planting date or during the late planting period (as applicable) for the first crop, you may collect a prevented planting payment that is 35 percent of the prevented planting payment for the first crop; and

(ii) Be responsible for a premium for the first crop that is commensurate with the amount of the indemnity paid for the first crop.

(g) The reduction in the amount of indemnity or prevented planting payment and premium specified in sections 15(e)(2)(i) and (ii) and 15(f)(2)(i) and (ii) will apply even if another person plants the second crop on any acreage where the first crop was planted or was prevented from being planted, as applicable. The reduction in the amount of indemnity or prevented planting payment will also apply if a volunteer crop is harvested from the same acreage in the same crop year, or if a cover crop is grazed, hayed, or otherwise harvested. In the event you receive cash rent for any acreage on which you were prevented from planting or had a partial or total loss to a first crop, any indemnity or prevented planting payment you receive for the first crop will be limited to 35 percent of the insurable loss or prevented planting payment for the first crop, regardless of whether or not a second crop is planted or a second crop suffers an insurable loss and your premium will be commensurate with the amount of indemnity or prevented planting payment paid. This reduction will not apply if the double-cropping requirements described in subsection (h) have been met.

(h) You may receive a full indemnity, or a full prevented planting payment for a first crop when a second crop is planted on the same acreage in the same crop year, regardless of whether or not the second crop is insured or sustains an insurable loss, if each of the following conditions are met:

(1) It is an established practice in the area to plant two or more crops for harvest in the same crop year;

(2) The second or more crops are customarily planted after the first crop for harvest on the same acreage in the same crop year in the area;

(3) Additional coverage insurance offered under the authority of the Act is available in the county on the two or more crops that are double-cropped;

(4) You provide records acceptable to us of acreage and production that show you have double cropped acreage in at least two of the last four crop years in which the first crop was planted, or that show the applicable acreage was double-cropped in at least two of the last four crop years in which the first crop was grown on it; and

(5) In the case of prevented planting, the second crop is not planted on or prior to the final planting date or, if applicable, the end of the late planting period for the first crop.

(i) The receipt of a full indemnity or prevented planting payment on both crops that are double-cropped is limited to the number of acres for which you can demonstrate you have double-cropped or that have been historically double-cropped as specified in section 15(h).

(j) If any Federal or State agency requires destruction of any insured crop production because it contains levels of substances or has conditions that are injurious to human or animal health in excess of the maximum amounts allowed by the Food and Drug Administration, other public health organizations of the United States or agency of the applicable State, you must certify that such production has been destroyed prior to receiving an indemnity payment. Failure to destroy the crop production will result in you having to repay any indemnity paid and you may be subject to administrative sanctions in accordance with section 515(h) of the Act and 7 CFR part 400, subpart R, and any applicable civil or criminal sanctions.

* * * * *

17. Prevented Planting.

(a) * * *

(1) You were prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and generally prevents other producers from planting acreage with similar characteristics (Failure to plant at any time on or before the final planting date when other producers in the area with acreage with similar characteristics are planting will result in the denial of the prevented planting claim provided that such planting constitutes a good farming practice. The surrounding area includes all acreage that has experienced the insured cause of loss and acreage with similar characteristics means acreage with similar geography, topography, soil types, and the same weather conditions and exposure) and occurs:

* * * * *

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage except as specified in section 15(f).

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. If a minimum number of acres or amount of production is specified in the processor contract, this amount will be used to determine the eligible acres. If a processor cancels or does not provide contracts, or reduces the contracted acreage or production from what would have otherwise been allowed, solely because the acreage was prevented from being planted due to an insured cause of loss, we may elect to determine the number of acres eligible based on the number of acres or amount of production you had contracted in the county in the previous crop year. If you did not have a processor contract in place for the previous crop year, you will not have any eligible prevented planting acreage for the applicable processor crop. The total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year. If the applicable crop provisions require that the price election be based on a contract price, and a contract is not in force for the current year, the price election may be based on the contract price in place for the previous crop year.

* * * * *

(f) * * *

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (Any prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field except that the prevented planting acreage may be considered to be acreage of a crop, type, and practice other than that which is planted in the field, if the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any one of the 4 most recent crop years, or if it is clear that the insured crop planted in the field would not have been planted on the prevented planting acreage because rotation requirements would not be met or because you had planted the total number of acres specified in the processor contract);

(2) For which the actuarial documents do not provide the information needed to determine a premium rate unless a written agreement designates such premium rate;

(3) Used for conservation purposes, intended to be left unplanted under any program administered by the USDA or other government agency, or is required to be left unharvested under the terms of the lease or any other agreement (The number of acres eligible for prevented planting will be limited to the number of acres specified in the lease for which you are required to pay either cash or share rent);

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting

payment for any crop for the same acreage in the same crop year, excluding share arrangements, unless:

(i) It is an established practice in the area to plant the second crop for harvest following harvest of the first crop, and additional coverage insurance offered under the authority of the Act is available in the county for both crops in the same crop year;

(ii) You provide records acceptable to us of acreage and production that show you have double-cropped acreage in at least two of the last four crop years in which the first crop was planted, or that show the applicable acreage was double-cropped in at least two of the last four crop years in which the first crop was grown on it; and

(iii) The amount of acreage you are double-cropping in the current crop year does not exceed the number of acres for which you provide the records required in section 17(f)(4)(ii);

(5) On which the insured crop is prevented from being planted, if any crop, is planted or a volunteer crop is harvested by you or any other person on the same acreage:

(i) Within the late planting period for the insured first crop, or on or before the final planting date if a late planting period is not applicable; or

(ii) On or before the final planting date for the insured crop unless you meet the double cropping requirements in section 17(f)(4), or the crop planted was a cover crop that was not hayed, grazed or otherwise harvested, or unless allowed by the Special Provisions.

(6) For which planting history or conservation plans indicate that the acreage would remain fallow for crop rotation purposes or on which any pasture or other forage crop is in place on the acreage during the time that planting of the insured crop generally occurs in the area;

* * * * *

(12) If, at the time you lease, buy, or otherwise acquire the acreage or the time the acreage becomes available to you for planting or you request insurance for the acreage, a cause of loss has occurred that will or could prevent planting.

* * * * *

18. Written Agreements.

* * * * *

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop practice, type or variety, the guarantee, premium rate or information needed to determine the premium rate, and price election;

(d) Each written agreement will only be valid for the number of crop years specified in the written agreement, not to exceed four years, or as long as the conditions under which the agreement was issued exist, whichever time period ends first (Such conditions include, but are not limited to, farming practices used, legal description of the acreage, types or varieties produced, etc. If any condition changes, you must notify us immediately, the written agreement will no longer be effective, and you must request a new written agreement. Failure to immediately notify us of changed conditions will result in denial of liability under the terms of the written agreement. If a written agreement is not specifically renewed after it expires, insurance coverage for subsequent years will be in accordance with the printed policy);

(e) An application for a written agreement submitted after the sales closing date may be approved if you demonstrate your physical inability to apply prior to the sales closing date, or it is submitted in accordance with FCIC approved written agreement procedures published on the RMA Web site at *http://www.rma.usda.gov/* or a successor website and, after inspection of the acreage by us, it is determined that no loss has occurred on planted acreage or no cause of loss that could prevent planting has occurred and the crop is insurable in accordance with the policy and written agreement provisions;

(f) For a crop, type, variety or practice that is not insurable in the county, you must provide at least four years of records to support the change you are requesting (If you do not have at least four years of records to support the requested change, your request for a written agreement will be denied); and

(g) Any written agreement will be denied if FCIC determines the risk is excessive.

* * * * *

[For FCIC policies]

20. Appeals and Administrative Review.

(a) All determinations required by the policy will be made by us. If you disagree with our determinations, you may:

(1) Except as provided in section 20(a)(2), obtain reconsideration of or appeal those determinations in accordance with appeal provisions published at 7 CFR part 11; or

(2) Request a reconsideration of our loss determination regarding good farming practices in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J.

(b) In any appeal proceeding or reconsideration, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV are binding and any state or local laws that are in conflict with the terms of the policy, the Act, and the regulations are preempted. [For reinsured policies]

20. Appeals and Administrative Review.

(a) Except as provided in section 20(d), you may appeal any determination made by FCIC in accordance with appeal provisions published at 7 CFR part 11.

(b) No award determined by appeal or administrative reconsideration can exceed the amount of liability established or which should have been established under the policy.

(c) In any appeal proceeding or reconsideration, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV are binding and any state or local laws that are in conflict with the terms of the policy, the Act, and the regulations are preempted.

(d) If you do not agree with any loss determination made regarding good farming practices, you may request reconsideration of this determination in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J.

Section 21. Access to Insured Crop and Records, and Record Retention.

(a) We, and any employee of USDA have the right to examine the insured crop and all records related to planting, replanting, inputs, production, harvesting, and disposition of the insured crop as often as we reasonably require during the record retention period.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, or the request of any employee of USDA:

(1) Complete records of the planting, replanting, inputs, production, harvesting, and disposition of the insured crop on each unit (This requirement also applies to all such records for acreage that is not insured); and

(2) All records used to establish the amount of production you certified on your production reports used to compute your approved yield unless such records have already been provided to us (For example, if your approved yield for the 2003 crop year was based on production records you certified for the 1997 through 2002 crop years, you must maintain all such records through the 2006 crop year, unless such records have already been provided to us).

(c) We may extend the record retention period beyond three years by notifying you of such extension in writing.

(d) By signing the application for insurance under the authority of the Act or by continuing insurance for which you have previously applied, you authorize us or USDA, or any person acting for us or USDA, to obtain records relating to the planting, replanting, inputs, production, harvesting, and disposition of the insured crop from any person who may have custody of such records, including but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist in obtaining all records we or any employee of USDA request from third parties.

(e) Failure to keep and maintain the records, provide access to the insured crop or authorize access to the records maintained by third parties will result in:

(1) For failure to keep separate records for optional units, but all other policy requirements are met, combination of the optional units into the basic units; or

(2) In all other cases, a determination that no indemnity or prevented planting or replant payment is due. Even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit.

22. Other Insurance.

(a) Other Like Insurance—Nothing in this section prevents you from obtaining other insurance not issued under the authority of the Act. However, unless specifically required by policy provisions, you must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If you cannot demonstrate that you did not intend to have more than one policy in effect, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If you can demonstrate that you did not intend to have more than one policy in effect, and:

(1) One is an additional coverage policy and the other is a Catastrophic Risk Protection policy:

(i) The additional coverage policy will apply if both are with the same insurance provider or, if not, both insurance providers agree; or

(ii) The policy with the earliest date of application will be in force if both insurance providers do not agree; or

(2) Both are additional coverage policies or both are Catastrophic Risk Protection policies, the policy with the earliest date of application will be in force and the other policy will be void, unless both policies are with:

(i) The same insurance provider and the insurance provider agrees otherwise; or

(ii) Different insurance providers and both insurance providers agree otherwise.

* * * * *

[For FCIC policies]

24. Amounts Due Us.

* * * * *

(b) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any part thereof, on any unpaid premium amount or administrative fee due us. With respect to any premiums or administrative fees owed, interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

* * * * *

[For reinsured policies]

24. Amounts Due Us.

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us. For the purpose of premium amounts or administrative fees due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions. We will collect any unpaid amounts or premium and any interest owed thereon. Administrative fees are owed to FCIC and FCIC will collect any unpaid administrative fees and any interest owed thereon.

* * * * *

(e) Amounts owed by you may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

25. Legal Action Against Us.

* * * * *

(c) You may not recover any attorneys fees or other charges, or any punitive, compensatory or any other damages except contractual damages, except as authorized in 7 CFR 400.352(b)(4).

* * * * *

34. Unit Division.

(a) * * *

(2) * * *

(iii) You must comply with all reporting requirements for the enterprise unit (While separate records of acreage and production for basic or optional units must be maintained, if you want to change your unit structure in subsequent crop years, it is not required to qualify for an enterprise unit);

* * * * *

(3) * * *

(iii) If you do not qualify for a whole farm unit when the acreage is reported, we will assign the basic unit structure.

* * * * *

(b) * * *

(1) You must maintain a clear and discernible border between each optional unit (Such border must remain clear and discernible throughout the entire growing season);

* * * * *

(3) You have records, that are acceptable to us, for at least the previous crop year for all optional and basic units that you will report in the current crop year (You may be required to produce the records for all units for the previous crop year);

* * * * *

(c) * * *

(2) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage (To qualify as separate irrigated and non-irrigated optional units, there must be a clear and discernable border between the irrigated and non-irrigated acreage. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit. In this case, production from both practices will be used to determine your approved yield); and

(3) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, or irrigated and non-irrigated acreage, separate optional units may be established for acreage of the insured crop grown and insured under an organic farming practice. To qualify as a separate optional unit, there must be a clear and discernable border between the acreage insured using an organic farming practice and other acreage of the insured crop. Certified organic, organic, transitional and buffer zone acreages do not individually qualify as separate units. (See section 37 for additional provisions regarding acreage insured under an organic farming practice).

* * * * *

36. Substitution of Yields.

(a) When you have actual yields in your production history that, due to insured causes of loss, are less than 60 percent of the applicable transitional yield (T-Yield), as defined in 7 CFR 400.52, you may elect to exclude one or more of any such yields.

(b) Such election must be made on or before the sales closing date for the insured crop and the election will remain in effect for succeeding years.

(c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the T-yield that is applicable in the county for the crop year in which the yield is being replaced (For example, if you elect to exclude your 1998 yield, the T-yield in effect for the 1998 crop year in the county will be used. If you also elect to exclude your 2002 yield, the T-yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

(d) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database.

(e) Premium rates for approved yields that are adjusted under this section will be based on your yield prior to replacing the actual yields or such other basis as determined appropriate by FCIC to cover the increased risk associated with the substitution of higher yields.

37. Organic Farming Practices.

(a) In accordance with section 8(b)(2), insurance will not be provided for any crop grown using an organic farming practice, unless the information needed to determine a premium rate for an organic farming practice is specified on the actuarial table, or insurance is allowed by a written agreement.

(b) If insurance is provided for an organic farming practice as specified in section 37(a), only the following acreage will be insured under such practice:

(1) Certified organic acreage;

(2) Transitional acreage that is being converted to certified organic acreage in accordance with an organic plan; and

(3) Buffer zone acreage.

(c) On the date you report your acreage, you must have:

(1) For certified organic acreage, a written certification in effect from a certifying agent indicating the name of the entity certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (A certificate issued to a tenant may be used to qualify a landlord or other similar arrangement);

(2) For transitional acreage, a certificate as described in section 37(c)(1), or written documentation from a certifying agent indicating that an organic plan is in effect for the acreage; and

(3) Records from the certifying agent showing the specific location of each field of certified organic, transitional, buffer zone, and acreage not maintained under organic management.

(d) If you claim a loss on any acreage insured under an organic farming practice, you must provide us with copies of the records required in section 37(c).

(e) If any acreage qualifies as certified organic or transitional acreage on the date you report such acreage, and such certification is subsequently revoked by the certifying agent, or the certifying agent no longer considers the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

(f) In addition to the applicable definition of ''good farming practices'', organic farming practices will be considered to be good

farming practices if they are those specified in the organic plan.

(g) Contamination by application or drift of prohibited substances onto land on which crops are grown using organic farming practices will not be an insured peril on any certified organic, transitional or buffer zone acreage.

(h) In addition to the provisions contained in section 17(f), prevented planting coverage will not be provided for any acreage based on an organic farming practice in excess of the number of acres that will be grown under an organic farming practice and shown as such in the records required in section 37(c).

(i) In lieu of the provisions contained in section 17(f)(1) that specify prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same practice that is planted in the field, prevented planting acreage will be considered as organic practice acreage if it is identified as certified organic, transitional, or buffer zone acreage in the organic plan.

Signed in Washington, DC, on September 12, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 02–23667 Filed 9–13–02; 10:00 am]

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Federal Register

Wednesday,
September 18, 2002

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 25 and 32

2002–2003 Refuge-Specific Hunting and Sport Fishing Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 32

RIN 1018–AI34

2002–2003 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (we or the Service) add seven additional refuges to the list of areas open for hunting and/or sport fishing activities and increase the activities available at eight other refuges, along with pertinent refuge-specific regulations for such activities, and amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for 2002–2003.

DATES: This rule is effective September 18, 2002.

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397; Fax (703) 358–2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 closes national wildlife refuges to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or fishing, upon a determination that such uses are compatible with the purposes of the refuge. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (System) for the benefit of present and future generations of Americans.

We annually review refuge hunting and fishing programs to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications, deletions, or additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to refuge-specific regulations to ensure the continued compatibility of hunting and fishing programs and that these programs will not materially interfere with or detract from the fulfillment of the purposes of the refuge or the System's mission.

You may find provisions governing hunting and fishing on national wildlife refuges in Title 50 of the Code of Federal Regulations in part 32. We regulate hunting and fishing on refuges to:

- Ensure compatibility with the purpose(s) of the refuge;
- Properly manage the fish and wildlife resource;
- Protect other refuge values;
- Ensure refuge visitor safety; and
- Provide opportunities for quality recreational and educational experiences.

On many refuges where we decide to allow hunting and fishing, our general policy of adopting regulations identical to State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under the section entitled ''Statutory Authority.'' We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to either migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or those species subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of areas open to hunting or fishing, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and fishing in 50 CFR part 32. In this rulemaking, we are promulgating many of the amendments to these sections to standardize and clarify the existing language of these regulations.

Plain Language Mandate

In this rule some of the revisions to the individual refuge units are to comply with a Presidential mandate to use plain language in regulations and do not modify the substance of the previous regulations. These types of changes include using ''you'' to refer to the reader and ''we'' to refer to the Service, using the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity, and using active voice.

Statutory Authority

The National Wildlife Refuge System Administration Act (Administration Act) of 1966 (16 U.S.C. 668dd–668ee, as amended), and the Refuge Recreation Act (Recreation Act) of 1962 (16 U.S.C. 460k–460k–4) govern the administration and public use of national wildlife refuges.

Amendments enacted by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) amend and build upon the Administration Act in a manner that provided an ''organic act'' for the System similar to those that exist for other public Federal lands. The Act serves to ensure that we effectively manage the System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Improvement Act states first and foremost that we focus the mission of the System on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible and promotes public safety. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses, when compatible, as the priority general public uses of the System. Those uses are: hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the acts and regulate uses.

We develop hunting and sport fishing plans for each refuge prior to opening it to hunting or fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the program(s) with the purpose(s) for which we established the refuge. We have ensured initial compliance with the Administration Act and the

Recreation Act for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. We ensure continued compliance through the development of comprehensive conservation plans, hunting and sport fishing plans, and annual review of hunting and sport fishing programs and regulations.

In preparation for new openings, we include the following documents in the refuges' ''opening package'' (which the Region completes, the Regional Director signs, and then the Region sends a copy to Headquarters Office): (1) Step-down hunting and/or fishing management plan; (2) appropriate National Environmental Policy Act (NEPA) documentation, (Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement); (3) appropriate decision documentation (*e.g.*, Finding of No Significant Impact, Record of Decision [ROD]); (4) section 7 Endangered Species Act evaluation; (5) copies of letters requesting State and, where appropriate, Tribal involvement and the results of the request; (6) draft news release; (7) outreach plan; and (8) draft refuge-specific regulation(s).

Response to Comments Received

In the June 20, 2002, **Federal Register** (67 FR 41920), we published a proposed rulemaking identifying the refuges and their proposed hunting and/or fishing programs and invited public comments. We reviewed and considered all comments following a 30-day comment period.

We received multiple comments from six different commenters on the proposed rule: five commenters were individuals, and one commenter was a nongovernmental organization. Four commenters strongly supported the proposed rule.

Comment: Three commenters expressed opposition to opening refuges to hunting and fishing and believe refuges should be places offering protection and shelter and feel that hunting ''unbalances the natural order of things and has a negative effect on all nongame as well.'' A commenter felt that the ''primary purpose of a refuge is conservation'' and did not feel that allowing/extending hunting and fishing on refuges will aid in the conservation of wildlife. The same commenter feels we violate the mandate of the ''National Wildlife Refuge Act, the Endangered Species Act, and the National Environmental Policy Act.''

Response: The National Wildlife Refuge System Administration Act of 1966 authorizes the Secretary to allow uses of any refuge area as long as those uses are compatible; and, in fact, the Act specifically references hunting and fishing. Recent amendments to the National Wildlife Refuge System Administration Act made by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) establish wildlife-dependent recreational uses as priority uses and include hunting and fishing in the definition of those uses.

The principal focus of the Improvement Act was to clearly establish a wildlife conservation mission for the System and provide managers clear direction to make determinations regarding wildlife conservation and public uses within the units of the System. The Service manages national wildlife refuges primarily for wildlife conservation, habitat protection, and biological integrity and allows uses only when compatible with the refuge purpose(s). In passing the Improvement Act, Congress reaffirmed the System was created to conserve fish, wildlife, plants, and their habitats and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting and/or fishing on System lands. The Service has adopted policies and regulations implementing the requirements of the Improvement Act that refuge managers comply with when considering hunting and fishing programs.

Additionally, we review all hunting programs annually to determine if they may affect, adversely or beneficially, threatened or endangered species and their habitat. The refuge manager will initiate consultation, as appropriate, in accordance with Section 7 of the Endangered Species Act and intra-Service consultation procedures and will take actions necessary to ensure the programs will not jeopardize listed species.

We further address compliance with the National Environmental Policy Act in the last comment below.

Comment: Two commenters asked that we add language to ''include approved hunting methods by falconry for small game and upland/migratory birds. [And to] * * * remove or clarify reference to domesticated animals or pets so as to leave no opportunity to misinterpret the possession of a hawk or falcon for use in hunting.''

Response: Falconry is a form of hunting (or take) regulated under State law and, if deemed appropriate and compatible, refuge managers may allow. We do not believe it is necessary to specify particular hunting methods in this rule. Because falconry is an alternative form of hunting, we must be cognizant of other hunting programs and potential conflicts between them when making the decision to provide that opportunity. As discussed in the response to the first comment, when developing a CCP for each refuge, the refuge manager examines the overarching decision of refuge management when determining whether or not to allow hunting. When preparing a refuge's individual hunting plans each refuge manager would need to make the decision to allow falconry strictly on a case-by-case basis.

As noted above, falconry is a form of hunting and because of that it is not necessary to specifically state that a hawk or falcon used in hunting is not a ''domesticated animal or pet.'' On some refuges, we allow the use of dogs as part of hunting activities on the refuge during the waterfowl season. Existing System policy directs the refuge manager to carefully consider the impacts of dogs on the refuge, refuge wildlife management objectives, and the activities allowed by the State when evaluating the compatibility of hunting dog use. The refuge manager may allow ''other domesticated animals or pets'' on a refuge-specific basis, again, based on appropriateness and compatibility. If a refuge manager determined that hunting dogs or other domesticated animals or pets or falconry would be both appropriate and compatible, 50 CFR part 32 would reflect that we allow their presence on refuges.

Comment: One commenter felt that we did not ''pay appropriate deference to the Administrative Procedure Act'' (APA) in that we allowed only 30 days for public comment and asked that we extend the comment period for an additional 30 days.

Response: The APA requires that agencies provide an opportunity for the public to participate in rulemaking by submitting written data, views, or arguments, and we make every effort to maximize that opportunity. The Refuge-Specific Hunting and Sport Fishing Regulations are an annual process, and we have routinely published the proposed rule each summer with a 30-day comment period. It has been our experience that this time period has worked satisfactorily. We make every attempt to collect all of the proposals from refuges nationwide and process them expeditiously to maximize the

time available for public review. As we stated in the proposed rule, by providing a 30-day comment period, we are trying to avoid jeopardizing the establishment of hunting and fishing programs this year (two of the six priority uses established by the Improvement Act) or shortening their duration while giving sufficient time for public participation. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

Comment: Regarding adopting and issuing season dates and times only after the State establishes its hunting seasons, one commenter questioned, ''* * * how can one know the effect that hunting and fishing will have on wildlife?''

Response: As discussed in response to the first comment, in preparation for opening a refuge for hunting or fishing, refuge managers conduct extensive analysis of the impact we believe that activity will have on the resource. At the end of each season, we review all hunting programs and make adjustments accordingly in successive years to avoid a negative impact.

Comment: A commenter questioned whether we prepare an Environmental Impact Statement (EIS) in accordance with NEPA before opening a refuge to hunting and/or fishing. They also feel it is incorrect to say that this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Response: We stand by our statement that this rule does not constitute a major Federal action significantly affecting the quality of the human environment. This rule is simply a compilation of refuge-specific information. Each of the individual refuges, when making their determinations as to whether or not to allow hunting and/or fishing, comply with NEPA (Categorical Exclusion, Environmental Assessment, or an Environmental Impact Statement), as appropriate, when they are preparing ''opening packages.''

Effective Date

This rule is effective upon publication in the **Federal Register**. We have determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of the hunting and fishing programs. We provided a 30-day comment period for the June 20, 2002, proposed rule. An additional delay would jeopardize holding the hunting and/or fishing programs this year or shorten their duration and thereby lessen the management effectiveness of this regulation. These rules do not impact the public generally in terms of requiring lead time for compliance. Rather they relieve restrictions in that they allow activities on refuges that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553 (d)(3) to make this rule effective upon publication.

In accordance with the Administration Act and Recreation Act, we have determined that these openings are compatible and consistent with the purpose(s) for which we established the respective refuges. A copy of the compatibility determinations for these respective refuges is available by request to the Regional contact noted under the heading ''Available Information for Specific Refuges.''

We allow the following wildlife-dependent recreational uses:

Hunting of migratory game birds on seven refuges, including:

- Bayou Teche National Wildlife Refuge, Louisiana
- Black Bayou Lake National Wildlife Refuge, Louisiana
- Cat Island National Wildlife Refuge, Louisiana
- Catahoula National Wildlife Refuge, Louisiana
- Marais des Cygnes National Wildlife Refuge, Kansas
- Trinity River National Wildlife Refuge, Texas
- Whittlesey Creek National Wildlife Refuge, Wisconsin

Hunting of upland game on five refuges, including:

- Bayou Teche National Wildlife Refuge, Louisiana
- Black Bayou Lake National Wildlife Refuge, Louisiana
- Cat Island National Wildlife Refuge, Louisiana
- Lost Trail National Wildlife Refuge, Montana
- Okefenokee National Wildlife Refuge, Georgia

Big game hunting on eight refuges, including:

- Bayou Teche National Wildlife Refuge, Louisiana
- Black Bayou Lake National Wildlife Refuge, Louisiana
- Cat Island National Wildlife Refuge, Louisiana
- Lost Trail National Wildlife Refuge, Montana
- Occoquan Bay National Wildlife Refuge, Virginia
- Rappahannock River Valley National Wildlife Refuge, Virginia
- Wallops Island National Wildlife Refuge, Virginia
- Washita National Wildlife Refuge, Oklahoma

Sport fishing on three refuges, including:

- Bayou Teche National Wildlife Refuge, Louisiana
- Cat Island National Wildlife Refuge, Louisiana
- Rydell National Wildlife Refuge, Minnesota

We also make several administrative changes. In § 25.41 we clarify that refuge managers have the authority to issue permits required by subchapter C of 50 CFR. In § 25.43 we clarify that refuge managers may terminate or revoke permits. These two changes do not alter our current practice but rather explicitly state the delegation to the refuge manager. In § 32.2(f) we revise the section designation in the last sentence of the paragraph of the refuge-specific regulations from §§ 32.20 through 32.71 to read §§ 32.20 through 32.72 to reflect the addition of Guam at § 32.72. In § 32.2(f), § 32.3(e), § 32.5(e), § 32.6(e), and the introductory text of § 32.7, we revise the section designations to reflect the addition of Guam. Additionally in § 32.3(e) we explain that the refuge manager may adopt and issue relevant refuge-specific season dates and times after the State establishes its hunting seasons by publication through one or more of the methods identified in 50 CFR 25.31 We authorize this limited departure from the existing process because seasons are set too late in the year for us to include in our annual regulations. In § 32.2(l) we reiterate that in addition to adopting the various items enumerated in the refuge-specific regulations (§ 32.20 through § 32.72), we will continue to notify the public of those items described in refuge permits and brochures available at that area's headquarters.

We incorporate this regulation into 50 CFR parts 25 and 32. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on national wildlife refuges. Part 25 contains the administrative provisions for the National Wildlife Refuge System.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866 and concurs with our designation of nonsignificance for this rule.

a. This rule will not have an annual economic effect of $100 million or

adversely affect an economic sector, productivity, jobs, the environment, or other units of the government. A cost-benefit and full economic analysis is not required. The purpose of this rule is to open 15 refuges to hunting and/or fishing activities. Eight of these refuges are already open to certain activities, and the remaining seven refuges will open to hunting and/or fishing activities for the first time. The refuges are located in the States of Virginia, Montana, Louisiana, Wisconsin, Oklahoma, Texas, New Mexico, Kansas, Minnesota, and Georgia. Fishing and hunting are two of the wildlife-dependent uses of national wildlife refuges that Congress recognizes as legitimate and appropriate, and we should facilitate their pursuit, subject to such restrictions or regulations as may be necessary to ensure their compatibility with the purpose of each refuge. Many of the 538 existing national wildlife refuges already have programs where we allow fishing and hunting. Not all refuges have the necessary resources that would make fishing and hunting opportunities available to the public. By opening these refuges to new activities, we have determined that we can make quality experiences available to the public. This rule establishes hunting and/or fishing programs at the following refuges: Occoquan Bay, Rappahannock River Valley, Wallops Island, Lost Trail, Bayou Teche, Cat Island, Catahoula, Whittlesey Creek, Washita, Trinity River, Bosque del Apache, Marais des Cygnes, Rydell, Okefenokee, and Black Bayou Lake. We state impacts in 2001 real dollars.

Following a best case scenario, if the refuges establishing new fishing and hunting programs were a pure addition to the current supply of such activities, it would mean a consumer surplus of $706,000 annually and an estimated increase of 10,320 user days of hunting and 575 user days of fishing (Table 1). However, the participation trend is flat in fishing and hunting activities because the number of Americans participating in these activities has been stagnant since 1991. Any increase in the supply of these activities introduced by adding refuges where the activity is available will most likely be offset by other sites losing participants, especially if the new sites have higher quality fishing and/or hunting opportunities. Using the value of the difference in the upper and lower bounds of the 95 percent confidence interval for average consumer surplus to represent the estimate of the increase in consumer surplus for higher quality fishing and hunting (Walsh, Johnson, and McKean, 1990) [1] yields an estimated increase in consumer surplus of $185,000 annually. Consequently, this rule will have a small measurable economic benefit on the U.S. economy.

TABLE 1.—ESTIMATED CHANGES IN CONSUMER SURPLUS FROM ADDITIONAL HUNTING AND FISHING OPPORTUNITIES IN 2002

Refuge	Additional fishing days	Additional hunting days	Fishing and hunting combined
Occoquan Bay	.....	50	50
Rappahannock River Valley	.....	500	500
Wallops Island	.....	30	30
Lost Trail	.....	2,000	2,000
Bayou Teche	25	75	100
Cat Island	250	750	1,000
Catahoula	.....	2,000	2,000
Whittlesey Creek	.....	100	100
Washita	.....	50	50
Trinity River	.....	675	675
Bosque del Apache	.....	90	90
Marais des Cygnes	.....	500	500
Rydell	300	.....	300
Okefenokee	.....	500	500
Black Bayou Lake	.....	3,000	3,000
Total Days per Year	575	10,320	10,895
Consumer Surplus per Day	$61.19	$64.99	.....
Consumer Surplus for Quality Change	23.23	16.62	.....
Change in Total Consumer Surplus	35,184	670,736	705,921
Change in Quality Consumer Surplus	13,357	171,505	184,862

Note: All estimates are stated in 2001 real dollars.

b. This rule will not create inconsistencies with other agencies' actions. This action pertains solely to the management of the National Wildlife Refuge System.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use of national wildlife refuges.

d. This rule will not raise novel legal or policy issues. This rule opens seven additional refuges for fishing and hunting activities and increases the activities available at eight other refuges. This rule continues the practice of allowing recreational public use of national wildlife refuges. Many refuges in the System currently have opportunities for the public to hunt and fish on refuge lands.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required.

[1] Article presented at the Western Regional Science Association Annual meeting in Molokai, Hawaii, on February 22, 1990.

Accordingly, a Small Entity Compliance Guide is not required.

This rule does not increase the types of recreation allowed on the System but establishes hunting and/or fishing programs on 15 refuges. As a result, opportunities for wildlife-dependent recreation on national wildlife refuges will increase. The changes in the amount of permitted use are likely to increase visitor activity on these national wildlife refuges.

For purposes of analysis, we will assume that any increase in refuge visitation is a pure addition to the supply of the available activity. This will result in a best case scenario, and we expect to overstate the benefits to local businesses. The latest information on the distances traveled for fishing and hunting activities indicates that over 80 percent of the participants travel less than 100 miles from home to engage in the activity. This indicates that participants will spend travel-related expenditures in their local economies. Since participation is scattered across the country, many small businesses benefit. The 1996 National Survey of Fishing, Hunting, and Wildlife Associated Recreation identifies expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the expected maximum additional participation on the Refuge System as a result of this rule yields the following estimates (Table 2) compared to total business activity for these sectors.

TABLE 2.—ESTIMATION OF THE ADDITIONAL EXPENDITURES WITH AN INCREASE OF ACTIVITIES IN EIGHT REFUGES AND THE OPENING OF SEVEN REFUGES TO HUNTING AND/OR FISHING FOR 2002

	U.S. total expenditures in 1996	Average expend. per day	Current refuge expenditures w/o duplication	Possible additional refuge expenditures
ANGLERS				
Total Days Spent	626 Mil	—	6.7 Mil	575
Total Expenditures	$42.7 Bil	$68	$456.2 Mil	$39,194
Trip Related	$17.4 Bil	$28	$185.7 Mil	$15,950
Food and Lodging	$6.8 Bil	$11	$72.3 Mil	$6,211
Transportation	$4.2 Bil	$7	$45.0 Mil	$3,868
Other	$6.4 Bil	$10	$68.3 Mil	$5,871
HUNTERS				
Total Days Spent	257 Mil		2.0 Mil	10,320
Total Expenditures	$23.3 Bil	$91	$182.4 Mil	$935,492
Trip Related	$5.8 Bil	$23	$45.6 Mil	$233,962
Food and Lodging	$2.8 Bil	$11	$22.2 Mil	$114,007
Transportation	$2.0 Bil	$8	$15.7 Mil	$80,761
Other	$1.0 Bil	$4	$7.6 Mil	$39,194

Note: All estimates are in 2001 real dollars.

Using a national impact multiplier for wildlife-associated recreation developed for the report ''1996 National and State Economic Impacts of Wildlife Watching'' for the estimated increase in direct expenditures yields a total economic impact of over $2.8 million (2001 dollars). Since we know that most of the fishing and hunting occur within 100 miles of a participant's residence, then it is unlikely that most of this spending would be ''new'' money coming into a local economy and, therefore, would be offset with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than $2.8 million and most likely considerably less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns would not add new money into the local economy and, therefore, the real impact would be on the order of $570,000 annually. The maximum increase (if all spending were new money) at most would be less than 1 percent for local retail trade spending (Table 3).

A large percentage of the retail trade establishments in the majority of affected counties qualify as small businesses. With the small increase in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small benefit from the increased recreationist spending near the affected refuges.

TABLE 3.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2002

Refuge/county(ies)	Retail trade in 1997 (2001 dollars)	Estimated maximum addition from new refuge	Addition as a percent of total	Total retail establ.	Establ. with < 10 emp.
Occoquan Bay, Prince William, VA	$283 Mil	$4,550	0.002	915	560
Rappahannock River Valley, Northumberland, VA	$4.9 Mil	45,500	0.93	54	45
Wallops Island, Accomack, VA	$199 Mil	2,730	0.001	208	152
Lost Trail, Flathead, MT	$768 Mil	182,000	0.02	475	398
Bayou Teche, St. Mary, LA	$437 Mil	8,525	0.002	256	176
Cat Island, Avoyelles, LA	$234 Mil	85,250	0.04	169	129
Catahoula		182,000	0.13		
LaSalle, LA,	$75 Mil			64	49
Catahoula, LA	$69 Mil			52	33

TABLE 3.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2002—Continued

Refuge/county(ies)	Retail trade in 1997 (2001 dollars)	Estimated maximum addition from new refuge	Addition as a percent of total	Total retail establ.	Establ. with < 10 emp.
Whittlesey Creek, Ashland, WI	$165 Mil	9,100	0.01	113	87
Washita Custer, OK	$259 Mil	4,550	0.002	172	119
Trinity River, Liberty, TX	$487 Mil	61,425	0.01	204	151
Bosque del Apache, Socorro, NM	$78 Mil	8,190	0.01	57	40
Marais des Cygnes, Linn, KS	$33 Mil	45,500	0.14	34	27
Rydell, Polk, MN	$234 Mil	20,400	0.01	152	97
Okefenokee, Charlton, GA	$35 Mil	45,500	0.13	49	47
Black Bayou Lake, Ouachita, LA	$1.6 Bil	273,000	0.02	753	519

Many small businesses may benefit from some increased wildlife refuge visitation. However, we expect that much of this benefit will be offset as recreationists spend the same money in a different location. We expect that the incremental recreational opportunities will be scattered, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any region or nationally.

Small Business Regulatory Enforcement Fairness Act

This 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 or more. The additional hunting and fishing opportunities at the 15 refuges that do not currently have these programs would generate expenditures by hunters and anglers with an economic impact estimated at $2.8 million per year (2001 dollars). Consequently, the maximum benefit of this rule for businesses both small and large would not be sufficient to make this a major rule. The impact would be scattered across the country and would most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will have only a slight effect on the costs of hunting and fishing opportunities of Americans. Under the assumption that any additional hunting and fishing opportunities would be quality experiences, participants would be attracted to the refuge. If the refuge were closer to the participants' residences, then a reduction in travel costs would occur and benefit the participants. The Service does not have information to quantify this reduction in travel cost but assumes that, since most people travel less than 100 miles to hunt and fish, the reduced travel cost would be small for the additional days of hunting and fishing generated by this rule. We do not expect this rule to affect the supply or demand for hunting and fishing opportunities in the United States and, therefore, it should not affect prices for hunting and fishing equipment and supplies, or the retailers that sell equipment.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This rule adds seven refuges to the list of refuges that have hunting and/or fishing programs and increases the type of activities offered at eight other refuges. Refuges that establish hunting and fishing programs may hire additional staff from the local community to assist with the programs, but this would not be a significant increase with only seven refuges adding new programs and eight refuges increasing programs by this rule. Consequently, we anticipate no significant employment or small business effects.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally owned and managed refuges, it does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This regulation will affect only visitors at national wildlife refuges and describe what they can do while they are on a refuge.

Federalism (Executive Order 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132. In preparing this rule, we worked with State governments.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation will clarify established regulations and result in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule opens 15 refuges to hunting and/or sport fishing programs and makes minor changes to other refuges open to those activities, it is not a significant regulatory action under Executive Order 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, we have evaluated possible

effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on national wildlife refuges with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations. This regulation is consistent with and not less restrictive than Tribal reservation rules.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the Office of Management and Budget under the Paperwork Reduction Act (OMB Control Number is 1018–0102). See 50 CFR 25.23 for information concerning that approval. 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.

Endangered Species Act Section 7 Consultation

We reviewed the changes in hunting and fishing regulations herein with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, as amended) (ESA). For the national wildlife refuges to open for hunting and/or fishing we have determined that Rappahannock River Valley, Trinity River, Bosque del Apache, Okefenokee, and Bayou Teche National Wildlife Refuges will not likely adversely affect and Catahoula, Washita, Rydell, Marais des Cygnes, Black Bayou Lake, Cat Island, Occoquan Bay, Whittlesey Creek, Lost Trail, and Wallops Island National Wildlife Refuges will not affect any endangered or threatened species or designated critical habitat.

We also comply with Section 7 of the ESA when developing comprehensive conservation plans, step-down management plans for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We also make determinations when required by the ESA before the addition of a refuge to the lists of areas open to hunting or fishing as contained in 50 CFR 32.7.

National Environmental Policy Act of 1969

We analyzed this rule in accordance with the criteria of NEPA (42 U.S.C. 4332(C)) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required.

A categorical exclusion from NEPA documentation applies to this amendment of refuge-specific hunting and fishing regulations since it is technical and procedural in nature.

Prior to the addition of a refuge to the list of areas open to hunting and/or fishing in 50 CFR part 32, we develop a hunting and/or fishing plan for the affected refuge. We incorporate these refuge hunting and fishing activities in the refuge CCPs and/or other step-down management plans, pursuant to our refuge planning guidance in 602 FW 1, 3, and 4. We prepare CCPs and step-down plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the affected State fish and wildlife agency(ies) and public to participate in the review, development, and implementation of these plans.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs and maps of their respective areas. You may also obtain information from the Regional offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue, Albuquerque, New Mexico 87103; Telephone (505) 248–6804.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Minnesota 55111; Telephone (612) 713–5400.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345; Telephone (404) 679–7154.

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8302.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Boulevard, Lakewood, Colorado 80228; Telephone (303) 236–8145.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3354.

Primary Author

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List of Subjects

50 CFR Part 25

Administrative practice and procedure, Concessions, Reporting and recordkeeping requirements, Safety, Wildlife refuges.

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, we amend Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 260k, 664dd, 715i, and 3901 *et seq.*; and Pub. L. 102–402, 106 Stat. 1961.

2. Revise § 25.41 to read as follows:

§ 25.41 Who issues refuge permits?

We authorize the refuge manager of the facility where an activity is to take place to issue permits required by this subchapter C unless the regulations in this subchapter C require the applicant to obtain the applicable permit from the Director or Secretary. In those situations, the refuge manager will so inform the applicant, giving the

applicant all necessary information as to how and where to apply.

3. Revise § 25.43 to read as follows:

§ 25.43 Who may terminate or revoke a permit and why?

The refuge manager may terminate or revoke a permit at any time for noncompliance with the terms of the permit or of the regulations in this subchapter C; for nonuse; for violation of any law, regulation, or order applicable to the refuge; or to protect public health or safety or the resources of a national wildlife refuge.

PART 32—[AMENDED]

4. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd-668ee, and 715i.

5. In § 32.2 by revising the section heading and paragraph (f) and adding paragraph (l) to read as follows:

§ 32.2 What are the requirements for hunting on areas of the National Wildlife Refuge System?

* * * * *

(f) Each person must comply with the provisions of any refuge-specific regulations governing hunting on the wildlife refuge area. Regulations, special conditions, and maps of the hunting areas for a particular wildlife refuge are available at that area's headquarters. In addition, refuge-specific hunting regulations for migratory game bird, upland game, and big game hunting appear in §§ 32.20 through 32.72.

* * * * *

(l) The refuge-specific regulations (§ 32.20 through § 32.72) may include the items discussed in § 32.3(b). Refuge permits and brochures should also include those items and any special conditions allowed by paragraph (f) of this section.

6. In § 32.3 by revising the section heading and paragraph (e) to read as follows:

§ 32.3 What are the procedures for publication of refuge-specific hunting regulations?

* * * * *

(e) We initially publish refuge-specific hunting regulations in the daily issue of the **Federal Register**, and subsequently they appear in §§ 32.20 through 32.72, except that the refuge manager may adopt and issue relevant refuge-specific season dates and times after the State establishes its hunting seasons by publication through one or more of the methods identified in § 25.31 of this subchapter C.

* * * * *

7. In § 32.5 by revising the section heading and paragraph (e) to read as follows:

§ 32.5 What are the requirements for sportfishing on areas of the National Wildlife Refuge System?

* * * * *

(e) Each person must comply with the provisions of any refuge-specific regulation governing fishing on the wildlife refuge area. Regulations, special conditions, and maps of the fishing areas for a particular wildlife refuge are available at that area's headquarters. In addition, refuge-specific sport fishing regulations appear in §§ 32.20 through 32.72.

8. In § 32.6 by revising the section heading and paragraph (e) to read as follows:

§ 32.6 What are the procedures for publication of refuge-specific sport fishing regulations?

* * * * *

(e) We initially publish refuge-specific sport fishing regulations in the daily issue of the **Federal Register**, and subsequently they appear in §§ 32.20 through 32.72.

* * * * *

9. In § 32.7 ''What refuge units are open to hunting and/or fishing?'' by:

a. Revising the heading and introductory text as set forth below;

b. Alphabetically adding Bayou Teche National Wildlife Refuge and Cat Island National Wildlife Refuge in the State of Louisiana;

c. Alphabetically adding Lost Trail National Wildlife Refuge in the State of Montana;

d. Alphabetically adding Occoquan Bay National Wildlife Refuge, Rappahannock River Valley National Wildlife Refuge, and Wallops Island National Wildlife Refuge in the State of Virginia; and

e. Alphabetically adding Whittlesey Creek National Wildlife Refuge in the State of Wisconsin.

§ 32.7 What refuge units are open to hunting and/or sport fishing?

Refuge units open to hunting and/or sport fishing in accordance with the provisions of subpart A of this part and §§ 32.20–32.72, inclusive, are as follows:

* * * * *

10. In § 32.22 Arizona by revising paragraph B. of Buenos Aires National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Buenos Aires National Wildlife Refuge

* * * * *

B. Upland Game Hunting. We allow hunting of cottontail rabbit, coyote, and skunks on designated areas of the refuge subject to the following condition: We require refuge permits for hunting of coyotes and skunks.

* * * * *

11. In § 32.24 California by:

a. Revising paragraph A.2. of Merced National Wildlife Refuge;

b. Revising paragraph A.2. of Modoc National Wildlife Refuge;

c. Revising paragraph A. of Salinas River National Wildlife Refuge;

d. Adding paragraph A.11. of San Luis National Wildlife Refuge; and

e. Revising paragraphs A. and B. of San Pablo Bay National Wildlife Refuge to read as follows:

§ 32.24 California.

* * * * *

Merced National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

2. You may possess no more than 25 approved nontoxic shotshells per day while in the field.

* * * * *

Modoc National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

2. After the first weekend of the open season, we allow hunting only on Wednesdays, Saturdays, and Sundays. Hunters must check in and out of the refuge by using self-service permits.

* * * * *

Salinas River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, and moorhens on designated areas of the refuge subject to the following conditions:

1. You may possess no more than 25 approved nontoxic shotshells per day while in the field.

2. Access to the hunt area is by foot traffic only. We do not allow bicycles and other conveyances. Mobility-impaired hunters should consult with the refuge manager for allowed conveyances.

3. You must keep firearms unloaded until you are within the designated hunt area.

* * * * *

San Luis National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

11. We do not allow vehicle trailers of any type or size to be in the refuge hunt

areas at any time or to be left unattended at any location on the refuge.

* * * * *

San Pablo Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge and subject to the following conditions:

1. You may possess no more than 25 approved nontoxic shotshells while in the field.

2. Access is by boat only.

3. You must remove all portable blinds, decoys, and personal equipment following each day's hunt.

4. We allow floating blinds on the refuge, and they are available to any hunter on a first-come, first-served basis. Floating blinds require refuge manager approval or are subject to removal. Floating blinds may be left overnight, but hunters must remove them from the refuge at the end of the waterfowl season.

5. We prohibit digging into levees or slough channels.

6. We allow only dogs engaged in hunting activities on the refuge during waterfowl season. We allow no other domesticated animals or pets.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge in accordance with State regulation and subject to the following conditions:

1. You may possess no more than 25 approved nontoxic shotshells while in the field.

2. You may access the Tolay Creek Unit by foot and bicycle only.

3. We allow only dogs engaged in hunting activities on the refuge during pheasant season. We allow no other domesticated animals or pets.

* * * * *

12. In § 32.28 Florida by:

a. Revising paragraphs A., B., and C. of Lower Suwannee National Wildlife Refuge;

b. Revising paragraph A.3. and adding paragraph D.9. of Merritt Island National Wildlife Refuge;

c. Revising paragraphs A., B., and C., and adding paragraph D.11. of St. Marks National Wildlife Refuge; and

d. Revising paragraph C. of St. Vincent National Wildlife Refuge to read as follows:

§ 32.28 Florida.

* * * * *

Lower Suwannee National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit.

2. Parents or adult guardians over the age of 21 are responsible for supervising hunters under the age of 16 and must remain within sight and normal voice contact of the juvenile hunter. Parents or adult guardians are responsible for ensuring that hunters under the age of 16 do not engage in conduct that would constitute a violation of the refuge regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit.

2. Parents or adult guardians over the age of 21 are responsible for supervising hunters under the age of 16 and must remain within sight and normal voice contact of the juvenile hunter. Parents or adult guardians are responsible for ensuring that hunters under the age of 16 do not engage in conduct that would constitute a violation of the refuge regulations.

C. Big Game Hunting. We allow hunting of big game on designated areas of the refuge subject to the following conditions:

1. We require a refuge permit.

2. Parents or adult guardians over the age of 21 are responsible for supervising hunters under the age of 16 and must remain within sight and normal voice contact of the juvenile hunter. Parents or adult guardians are responsible for ensuring that hunters under the age of 16 do not engage in conduct that would constitute a violation of the refuge regulations.

* * * * *

Merritt Island National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

3. You may hunt only in four designated areas of the refuge subject to delineation in the refuge hunting brochure and map, including the open waters of Mosquito Lagoon, Indian River, and designated impoundments outside the NASA security area. We do not allow hunting in the Banana River. You may not hunt in or enter any portion of the refuge south of Haulover Canal and east of the western boundary when the Kennedy Space Center activates its outer security perimeter.

* * * * *

D. Sport Fishing. * * *

* * * * *

9. You may not fish in or enter any portion of the refuge south of Haulover Canal and east of the western boundary when the Kennedy Space Center activates its outer security perimeter.

* * * * *

St. Marks National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots in designated areas of the refuge subject to the following condition: We require refuge permits.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and raccoon on designated areas of the refuge subject to the following condition: We require refuge permits.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. * * *

* * * * *

11. While on the refuge, anglers must keep all harvested fish in whole condition.

St. Vincent National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer, sambar deer, and feral hog on designated areas of the refuge subject to the following condition: We require refuge permits.

* * * * *

13. In § 32.29 Georgia by revising paragraph B. of Okefenokee National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

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Okefenokee National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of rabbit, squirrel, bobwhite quail, and turkey in the Cowhouse Unit of the refuge. The season will be consistent with the adjacent Dixon Memorial Wildlife Management Area and subject to the following conditions:

1. We require sign in/sign out.

2. We allow no vehicles on the refuge portion of Cowhouse Island.

3. We allow no dogs except for pointing dogs during quail hunts.

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14. In § 32.32 Illinois by revising paragraph A.2. and C.3. of Crab Orchard National Wildlife Refuge to read as follows:

§ 32.32 Illinois.

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Crab Orchard National Wildlife Refuge

A. Hunting of Migratory Game Birds.

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2. We only allow the use of portable or temporary blinds. Blinds must be a minimum of 200 yards (180 m) apart. You must remove portable or temporary blinds, any material brought onto the refuge for blind construction, boats, decoys, and all other personal property from the refuge at the end of each day's hunt.

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C. Big Game Hunting. * * *

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3. We prohibit deer hunting with a firearm in the controlled goose hunting areas or on all refuge lands north of Illinois State Route 13. We allow deer hunting in the controlled goose hunting areas and on all refuge lands north of Illinois State Route 13 only with archery equipment and in accordance with State regulations.

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15. In § 32.35 Kansas by:

a. Revising paragraphs A., B., and C. of Flint Hills National Wildlife Refuge; and

b. Revising paragraph A. of Marais des Cygnes National Wildlife Refuge to read as follows:

§ 32.35 Kansas.

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Flint Hills National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, mourning doves, rails (Virginia and sora only), and common snipe on designated areas of the refuge in accordance with State regulations and subject to the following condition: You may use only approved nontoxic shot.

B. Upland Game Hunting. We allow hunting of pheasant, quail, prairie chicken, rabbit, squirrel, and crow on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We prohibit centerfire rifles and pistols.

2. You may use only approved nontoxic shot for all shotgun hunting.

C. Big Game Hunting. We allow hunting of turkey and deer on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We allow only shotguns, muzzleloading firearms, or bow and arrow.

2. You may use only approved nontoxic shot for turkey hunting.

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Marais des Cygnes National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, rails (sora), coots, common snipe, and woodcock on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We restrict motor vehicles, including all-terrain vehicles (ATVs), to public roads and parking lots.

2. We restrict outboard motor use to the westernmost 5.5-mile (8.8 km) section of the Marais des Cygnes River. You may use nonmotorized boats and electric trolling motors on all open portions of the refuge, including the eastern 4-mile (6.4 km) section of the Marais des Cygnes River. Property boundaries are at the center of the river. Where sections of the river border private property, only the half of the river adjacent to public property is open to public use.

3. You must remove decoys each day.

4. We prohibit discharge of firearms within 150 yards (135 m) of any residence or other occupied building.

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16. In § 32.37 Louisiana by:

a. Revising paragraph B. of Bayou Cocodrie National Wildlife Refuge;

b. Adding Bayou Teche National Wildlife Refuge;

c. Revising paragraphs A., B., and C. of Black Bayou Lake National Wildlife Refuge;

d. Adding Cat Island National Wildlife Refuge; and

e. Revising Catahoula National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

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Bayou Cocodrie National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of rabbit, squirrel, raccoon, beaver, feral hog, and coyote on designated areas of the refuge subject to the following condition: We require a refuge permit.

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Bayou Teche National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds in designated areas of the refuge subject to the following conditions:

1. We require the use of either refuge-issued Self-clearing daily permits or Lottery permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge brochure.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

1. We require refuge-issued Self-clearing daily permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge brochure.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

1. We require the use of either refuge-issued Self-clearing daily permits or Lottery permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge brochure.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following condition: Any person entering, using, or occupying the refuge for fishing must abide by all terms and conditions in the refuge brochure.

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Black Bayou Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds in designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

B. Upland Game Hunting. We allow hunting of raccoon, opossum, squirrel, rabbit, quail, woodcock, coyote, and beaver on designated areas of the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

C. Big Game Hunting. We allow archery hunting of white-tailed deer on the refuge subject to the following conditions:

1. We require refuge permits.

2. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the refuge hunting brochure.

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Cat Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, coots, woodcock, and common snipe on designated areas of the refuge in accordance with State regulations and subject to the following condition: We require refuge permits.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon,

beaver, nutria, and coyote on designated areas of the refuge in accordance with State regulations and subject to the following condition: We require refuge permits.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations and subject to the following condition: We require refuge permits.

D. Sport Fishing. We allow fishing and crayfishing on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We require refuge permits.

2. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

Catahoula National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following condition: We require refuge permits.

B. Upland Game Hunting. We allow hunting of raccoon, squirrel, rabbit, and feral hog on designated areas of the refuge subject to the following condition: We require refuge permits.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following condition: We require refuge permits.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow fishing from 1 hour before sunrise until ½-hour after sunset.

2. We allow boat launching on all refuge waters as designated in the refuge brochure. We allow only nonmotorized boats or boats with motors of 10 horsepower or less, except on Bushley Creek, Big Bushley Creek, and Little Bushley Creek where there is no horsepower restriction.

3. Cowpen Bayou, the Highway 28 borrow pits, and Bushley Bayou Unit are open to fishing all year.

4. All other refuge waters on the Headquarters Unit, including Duck Lake, Muddy Bayou, Willow Lake, ditches, all outlet waters, and all flooded woodlands are open to fishing and boating from March 1 through October 31.

5. On the Headquarters Unit we allow only pole and line or rod and reel fishing. We prohibit snagging.

6. On the Bushley Bayou Unit we allow fishing and crayfishing subject to the following conditions:

i. Anglers must reset trotlines when receding water levels expose them, and trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

ii. Anglers must attend yo-yos during daylight hours only.

iii. We allow recreational gear (slat traps, wire nets, hoop nets) only by refuge permit and only in Bushley Creek, Big Bushley Creek, and Little Bushley Creek.

iv. We prohibit commercial fishing and crayfishing.

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17. In § 32.38 Maine by revising paragraphs C. and D. of Moosehorn National Wildlife Refuge to read as follows:

§ 32.38 Maine.

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Moosehorn National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge subject to the following conditions:

1. During firearms big game season hunters must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) solid-colored hunter orange clothing or material.

2. Hunters harvesting a deer on the refuge must notify the refuge office within 24 hours and present the field-dressed deer for inspection by refuge personnel.

3. Hunters who wish to use portable tree stands or blinds must register at the refuge office prior to placement of the stand or blind.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We allow nonmotorized boats only on Bearce and Conic Lakes.

2. We allow fishing during daylight hours only.

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18. In § 32.41 Michigan by revising paragraphs C. and D. of Seney National Wildlife Refuge to read as follows:

§ 32.41 Michigan.

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Seney National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer and bear on designated areas of the refuge subject to the following condition: We do not allow the use of dogs while deer or bear hunting.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We do not allow the use of fishing weights or lures containing lead.

2. We allow ice fishing from January 1 through the end of February during daylight hours only.

3. We do not allow ice shanties, houses, or shelters on F Pool.

4. When ice fishing, we do not allow snowmobiles or all-terrain vehicles. We prohibit all-terrain vehicles and snowmobiles on the refuge.

5. We allow fishing from May 15 through September 30 during daylight hours only.

6. We allow fishing on the Creighton Driggs and Manistique Rivers from May 15 through September 30.

7. We allow only bank fishing in refuge pools.

8. We allow nonmotorized boats and bankfishing along Driggs and Creighton Rivers.

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19. In § 32.42 Minnesota by:

a. Revising the introductory text of paragraph A. of Litchfield Wetland Management District;

b. Revising paragraph D. of Rydell National Wildlife Refuge; and

c. Adding paragraph B.4. of Tamarac National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

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Litchfield Wetland Management District

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds throughout the district except you may not hunt on the Phare Lake Waterfowl Production Area in Renville County. All hunting is subject to the following conditions:

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Rydell National Wildlife Refuge

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D. Sport Fishing. We only allow fishing from the fishing pier on Tamarac Lake beginning May 1 through July 15 during refuge open hours.

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Tamarac National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. We require hunters to wear at least one article of blaze orange clothing visible above the waist.

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20. In § 32.45 Montana by:

a. Revising paragraphs A., C., and D. of Lee Metcalf National Wildlife Refuge; and

b. Adding Lost Trail National Wildlife Refuge to read as follows:

§ 32.45 Montana.

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Lee Metcalf National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, geese, and coots from established blinds in designated areas of the refuge in accordance with State regulations and subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. Hunting Access: We number blinds and assign them to a specific access point designated in the refuge hunting leaflet. Hunters must park at the appropriate access point and numbered parking space and walk to a blind along mowed trails designated on the hunting leaflet. We open access points to hunters who intend to immediately hunt on the refuge. We prohibit wildlife observation, scouting, and loitering at access points and parking areas.

2. Hunting Hours: We open the hunting area, defined by the refuge boundary fence, 2 hours before and require departure 2 hours after the waterfowl hunting hours, as defined by Montana Department of Fish, Wildlife and Parks.

3. Registration: Each hunter must record his or her name and Conservation

License Number at the appropriate register before hunting, must set the appropriate blind selector before and after hunting, and must record hunting data at the appropriate register before departing the hunting area.

4. Blind selection is on a first-come, first-served basis with the exception of the opening weekend of waterfowl season. We will distribute blind permits for the opening weekend by a public drawing. We will announce the drawing time and place in local newspapers.

5. Hunters with a documented mobility disability may reserve an accessible blind in advance by contacting a refuge officer.

6. No more than four hunters may use a single blind at one time.

7. You may not possess more than 20 approved nontoxic shotshells per day.

8. You must conduct all hunting from within 10 feet (3 m) of a blind.

9. All hunters must have a visible means of retrieving waterfowl such as a float tube, chest-high waders, or a dog capable of retrieving.

10. Hunters must deploy a minimum of six decoys per blind in order to hunt from blinds 7, 8, 9, 10, 11, and 14.

11. We prohibit attempting to ''reserve'' a blind for use later in the day by depositing a vehicle or other equipment on the refuge. A hunter must be physically present in the hunting area in order to use a blind.

12. We prohibit falconry hunting.

13. We prohibit blocking access to refuge gates.

14. We prohibit boats, fishing gear, fires, alcoholic beverages, and littering. Litter includes food products, animal parts, and spent shells.

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C. Big Game Hunting. We allow archery hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations and subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. Hunting Access: Hunters must enter and exit through designated archery hunting access points. Access points are open to hunters intending to immediately hunt on the refuge. We prohibit wildlife observation, scouting, and loitering at access points and parking areas.

2. Hunting Hours: We open the hunting area, defined by the refuge boundary fence, 2 hours before and require departure 2 hours after the big game hunting hours as defined by Montana Department of Fish, Wildlife and Parks.

3. Registration: Each hunter must record his or her name and Conservation License Number at the appropriate register before hunting and must record hunting data at the appropriate register before departing the hunting area.

4. Tree Stands and Blinds: We allow only portable tree stands and blinds. We prohibit leaving tree stands or ground blinds on the refuge overnight. We prohibit the use of screw-in tree steps or climbing spikes. We prohibit the use of nails, wire, screws, or bolts to attach a stand to a tree, or hunting from a tree into which a hunter has driven a metal object for support.

5. We prohibit pre-season entry or scouting.

6. Hunters may not enter or retrieve deer from closed areas of the refuge without the consent of a refuge officer.

7. We prohibit boats, fishing gear, fires, firearms, alcoholic beverages, and littering.

8. Hunters with a documented mobility disability may access designated locations in the hunting area to hunt from ground blinds. To access these areas, hunters must contact the refuge manager in advance to obtain a special use permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations in effect on the Bitterroot River from Tucker Crossing to Florence Bridge subject to specific regulations detailed in refuge publications, signs, and brochures.

Lost Trail National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. We allow hunting of turkey and mountain grouse in designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We do not allow hunting in areas posted as ''Closed to Hunting'' around the refuge headquarters, maintenance buildings, and quarters.

2. We prohibit guiding and outfitting.

3. We allow use of riding or pack stock on access routes designated through the refuge to access off-refuge lands as designated in the public use leaflet.

4. You may not use dogs for hunting of any species.

5. You may possess only approved nontoxic shot while on the refuge.

6. We prohibit overnight camping.

7. We prohibit retrieval of game through areas closed to hunting without prior consent by the refuge manager.

8. We allow only portable or temporary blinds and tree stands.

9. We allow parking in designated areas only.

C. Big Game Hunting. We allow hunting of elk, white-tailed deer, and mule deer within designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We do not allow hunting in areas posted as ''Closed to Hunting'' around the refuge headquarters, maintenance buildings, and quarters.

2. We prohibit guiding and outfitting.

3. We allow use of riding or pack stock on access routes designated through the refuge to access off-refuge lands as designated in the public use leaflet.

4. You may not use dogs for hunting of any species.

5. You may possess only approved nontoxic shot while on the refuge.

6. We prohibit overnight camping.

7. We prohibit open fires.

8. We prohibit retrieval of game through areas closed to hunting without prior consent by the refuge manager.

9. We allow only portable or temporary blinds and tree stands.

10. We allow parking in designated areas only.

11. The first week of the archery and the first week of general elk and deer hunting season are open to youth-only (ages 12 and 13 only) hunting.

D. Sport Fishing. [Reserved]

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21. In § 32.47 Nevada revising the introductory text of paragraph A., removing paragraph A.2., and redesignating paragraph A.3. as paragraph A.2, and revising paragraphs D.2., D.3., D.4., D.5., D.6., and D.7. of Ruby Lake National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

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Ruby Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of dark geese, ducks, coots, moorhens, and common snipe on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

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D. Sport Fishing. * * *

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2. We allow fishing by wading and from personal flotation devices (float tubes) and bank fishing in designated areas.

3. You may use only artificial lures in the Collection Ditch and adjoining spring ponds.

4. We do not allow boats on refuge waters from January 1 through June 14.

5. During the boating season, we allow boats only on the South Marsh. June 15 through July 31, we allow only motorless boats or boats with battery-powered electric motors. Anglers must remove all gasoline-powered motors. August 1 through December 31, we allow only motorless boats and boats propelled with motors with a total of 10 horsepower or less.

6. We allow launching of boats only from designated landings.

7. We prohibit the possession of live or dead bait fish, any amphibians (including frogs), and crayfish on the refuge.

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22. In § 32.50 New Mexico by:

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a. Revising paragraph C. of Bitter Lake National Wildlife Refuge; and

b. Revising paragraphs A. and C. of Bosque del Apache National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

Bitter Lake National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of mule deer, white-tailed deer, and feral hog on designated areas of the refuge subject to the following condition: We allow hunting during seasons, dates, times, and areas as posted by signs and/or indicated on refuge leaflets, special regulations, and maps available at the refuge office.

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Bosque del Apache National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of mourning and white-winged doves and snow geese on designated areas of the refuge subject to the following conditions:

1. You may hunt snow geese on Monday, Wednesday, and Friday during the second full week of January.

2. We require a refuge permit and payment of a fee to hunt snow geese.

3. You may possess only nontoxic shot while in the field.

4. We allow use of hunting dogs for bird retrieval.

5. We do not allow hunters or dogs to retrieve dead or wounded birds in closed areas.

6. Each hunter must successfully complete a New Mexico crane and snow goose hunter identification training course for hunting on State and Federal refuges in the Middle Rio Grande Valley.

7. Snow goose hunters must report to the refuge headquarters by 4:45 a.m. each hunt day. Shooting time will be 6:45 a.m. to 10 a.m. local time.

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C. Big Game Hunting. We allow hunting of mule deer and oryx on designated areas of the refuge subject to the following conditions:

1. Refer to the refuge map for designated areas.

2. Hunts are subject to State regulations and seasons.

3. Oryx hunters should contact the refuge manager for special hunt dates.

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23. In § 32.52 North Carolina by:

a. Revising Alligator River National Wildlife Refuge;

b. Revising paragraph D. of Pea Island National Wildlife Refuge; and

c. Adding paragraph A.5. and revising paragraphs B.3. and C.3. of Pocosin Lakes National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

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Alligator River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of swans, geese, ducks, coots, common snipe, mourning doves, and woodcock on designated areas of the refuge subject to the following conditions:

1. We require possession of a refuge hunting permit.

2. You may possess only approved nontoxic shot in the field.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

1. We require possession of a refuge permit.

2. You may possess only approved nontoxic shot while on the refuge when hunting with a shotgun, except you may possess slugs and buckshot containing lead to hunt deer.

3. We require possession of a refuge Special Use Permit to hunt raccoon and opossum at night.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require possession of a refuge hunting permit.

D. Sport Fishing. We allow fishing and frogging on designated areas of the refuge subject to the following conditions:

1. You may fish year-round from ½ hour before sunrise to ½ hour after sunset. We require possession of a refuge Special Use Permit to fish at night.

2. You may use only a pole and line, rod and reel, hand line, dip net, or cast net for fishing.

3. You may take frogs only at night from April 1 through August 31. We require possession of a refuge Special Use Permit to take frogs.

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Pea Island National Wildlife Refuge

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D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

1. We prohibit fishing and crabbing in North Pond, South Pond, Newfield, North Carolina Department of Transportation Mitigation and other impoundments west of North Carolina Highway 12.

2. You may fish year-round from ½ hour before sunrise to ½ hour after sunset. You may surf fish at night from September 15 through May 31 east of North Carolina Highway 12. We require possession of a refuge fishing permit to surf fish at night.

3. You may use only pole and line, rod and reel, hand line, dip net, or cast net for fishing and crabbing.

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Pocosin Lakes National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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5. You must unload, encase, or dismantle firearms transported via motorized vehicle or in a boat under power.

B. Upland Game Hunting. * * *

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3. You must unload, encase, or dismantle firearms transported via motorized vehicle or in a boat under power.

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C. Big Game Hunting. * * *

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3. You must unload, encase, or dismantle firearms transported via motorized vehicle or in a boat under power.

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24. In § 32.53 North Dakota by:

a. Revising Paragraphs B.3. and B.4. and by adding paragraphs B.5. and B.6. of Des Lacs National Wildlife Refuge; and

b. Revising paragraphs B., C., and D. of Long Lake National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

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Des Lacs National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. Upland game bird and rabbit season opens annually on the day following the close of the regular firearm deer season through the end of the State season.

4. The upland game bird and rabbit falconry season opens annually on the day following the close of the regular firearm deer season through March 31.

5. Fox hunting opens annually on the day following the close of the regular firearm deer season through March 31.

6. Turkey hunting is subject to all State regulations, license requirements, units, and dates.

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Long Lake National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ring-necked pheasant, sharp-tailed grouse, and gray partridge on designated areas of the refuge subject to the following conditions:

1. You may possess only approved nontoxic shot while in the field.

2. The upland game bird season opens annually on the day following the close of the firearm deer season and runs through the close of the State season.

C. Big Game Hunting. We allow hunting of deer only on designated areas of the refuge subject to the following conditions:

1. Hunters must enter the refuge on foot only.

2. We allow archery hunting. We restrict open archery areas to those areas of the refuge open to firearms during the firearm season.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

1. We restrict bank fishing to public use areas on Unit 1, Unit 2, and Long Lake Creek.

2. We restrict boat fishing to Long Lake Creek.

3. We restrict boats to 25 horsepower maximum.

4. We restrict boats to the period from May 1 through September 30.

5. We restrict ice fishing to Unit 1 and Long Lake Creek.

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25. In § 32.55 Oklahoma by revising paragraph C. of Washita National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

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Washita National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

1. We allow hunting during the special refuge season in accordance with the refuge hunt information sheet.

2. You must obtain a refuge hunt permit and pay a fee (fee waived for Youth Hunt participants).

3. You must check in and out of hunt areas daily at the refuge office or check station.

4. You must take bagged deer and/or hog to the refuge check station.

5. We will determine bag limits on deer annually.

6. We prohibit the use of bait.

7. A nonhunting mentor of 21 years of age or older must accompany, and be in the immediate presence of, participants in the Youth Hunt, who must be between the ages of 12 and 18. Hunters and mentors must BOTH wear hunter orange clothing meeting or exceeding the minimum State requirements.

8. We prohibit handguns.

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26. In § 32.56 Oregon by:

a. Revising paragraph C. of Malheur National Wildlife Refuge; and

b. Revising McNary National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

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Malheur National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer and pronghorn during authorized State seasons only on the refuge area west of Highway 205 and south of Foster Flat Road.

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McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of doves on designated areas of the refuge in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations and subject to the following condition: We allow shotgun and archery hunting only.

D. Sport Fishing. [Reserved]

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27. In § 32.57 Pennsylvania by revising the introductory text of paragraph C. and adding paragraphs C.4. and C.5. to Erie National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

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Erie National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer, bear, and turkey on designated areas of the refuge subject to the following conditions:

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4. We prohibit organized deer drives by three or more persons in hunt area B of the refuge. We define a ''drive'' as three or more individuals involved in the act of chasing, pursuing, disturbing, or otherwise directing game as to make the animals more susceptible to harvest.

5. We require a refuge Special Use Permit for hunting of bear.

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28. In § 32.60 South Carolina by:

a. Revising paragraph C. of ACE Basin National Wildlife Refuge; and

b. Revising Cape Romain National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

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ACE Basin National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following condition: We require a refuge permit.

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Cape Romain National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of marsh hens/rails

only on designated areas of the refuge subject to the following conditions:

1. We require a refuge hunt permit.

2. You may possess only approved nontoxic shot.

B. Upland Game Hunting. We allow hunting of raccoon on designated areas of the refuge subject to the following condition: We require a refuge hunt permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: We require a refuge hunt permit.

D. Sport Fishing. We allow fishing, crabbing, and shell fishing on designated areas of the refuge subject to State regulations and the following condition: Marsh Island, White Banks, and Bird Island are open from September 15 through February 15. We close them the rest of the year to protect nesting birds.

* * * * *

29. In § 32.62 Tennessee by revising paragraphs B.1. and C.1. of Tennessee National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

* * * * *

Tennessee National Wildlife Refuge

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B. Upland Game Hunting. * * *

1. We require annual refuge hunting permits.

* * * * *

C. Big Game Hunting. * * *

1. We require annual refuge hunting permits.

* * * * *

30. In § 32.63 Texas by:

a. Revising the introductory text of paragraph A., revising paragraphs A.1., A.2., A.3., and removing paragraphs A.5. and A.6. of Anahuac National Wildlife Refuge;

b. Removing paragraph A.3 from Brazoria National Wildlife Refuge;

c. Revising the introductory text of paragraph A., revising paragraphs A.1., A.2., A.3., removing paragraphs A.4., A.5., and A.7., and redesignating paragraph A.6. as paragraph A.4. of McFaddin National Wildlife Refuge;

d. Removing paragraph A.3. from San Bernard National Wildlife Refuge;

e. Revising the introductory text of paragraph A., revising paragraphs A.1. and A.2., removing paragraphs A.3., A.4., and A.6., and redesignating paragraph A.5 as paragraph A.3. of Texas Point National Wildlife Refuge; and

f. Revising paragraph A. of Trinity River National Wildlife Refuge to read as follows:

§ 32.63 Texas.

* * * * *

Anahuac National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require a permit to hunt on all hunting units of the refuge, and hunters must have this permit in their possession while hunting. The annually issued waterfowl hunting permit contains all refuge-specific waterfowl hunting regulations. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the waterfowl hunting permit.

2. We require payment of a fee to hunt on portions of the refuge.

3. You may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season. You may hunt on designated areas during all days of the September teal season. We annually issue notice of hunting days and maps depicting areas open to hunting in the refuge hunting permit.

* * * * *

McFaddin National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require a permit to hunt on all hunting units of the refuge, and hunters must have this permit in their possession while hunting. The annually issued waterfowl hunting permit contains all refuge-specific waterfowl hunting regulations. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the waterfowl hunting permit.

2. We require payment of a fee to hunt on portions of the refuge.

3. You may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season. You may hunt on designated areas during all days of the September teal season. We annually issue notice of hunting days and maps depicting areas open to hunting in the refuge permit.

* * * * *

Texas Point National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, and coots on designated areas of the refuge subject to the following conditions:

1. We require a permit to hunt on all hunting units of the refuge, and the hunter must have this permit in his or her possession while hunting. The annually issued waterfowl hunting permit contains all refuge-specific waterfowl hunting regulations. Any person entering, using, or occupying the refuge for hunting must abide by all terms and conditions in the waterfowl hunting permit.

2. You may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season. You may hunt on designated areas during all days of the September teal season. We annually issue notice of hunting days and maps depicting areas open to hunting in the refuge hunting permit.

* * * * *

Trinity River National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks on designated areas of the refuge subject to the following conditions:

1. We allow hunting on Champion Lake by drawing only.

2. We require an application fee for participants to enter the drawing. We will issue a refuge permit to those drawn, and the hunter must carry the permit at all times when hunting.

3. We allow hunting on Saturday and Sunday during the State duck and teal season. Hunters may not enter the refuge before 4:30 a.m. and must be off the hunt area by 12:00 p.m. (noon).

4. We allow only temporary blinds. Hunters must remove blinds and decoys daily.

5. We limit motors to 10 horsepower or less.

6. We allow retrievers, but they must be under the control of the owner.

7. Youth hunters, 17 years of age and under, must be under direct supervision of an adult, 18 years of age or older.

8. You must unload and encase all shotguns while in transit through the refuge.

9. You may possess only approved nontoxic shot.

10. The minimum distance we allow between hunt parties is 150 yards (135 m).

11. We prohibit the use, possession, or being under the influence of alcoholic beverages while hunting in or accessing or returning from the field.

* * * * *

30a. In § 32.64 Utah by revising paragraph A. of Fish Springs National Wildlife Refuge to read as follows:

§ 32.64 Utah.

* * * * *

Fish Springs National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks and coots on designated areas of the refuge in accordance with State regulations and the following conditions:

1. All hunters must register individually at the visitor information station before entering the open hunting area and prior to exiting the refuge.

2. We do not allow hunters or dogs to enter closed areas to retrieve birds.

3. You may only possess firearms legally used to hunt waterfowl unless you case or break them down.

4. You may construct nonpermanent blinds. You must remove all blinds constructed out of materials other than vegetation at the end of a hunt day.

5. We allow use of small boats (15′ or less). We do not allow gasoline motors and air boats.

6. You may enter the refuge 2 hours prior to sunrise and must exit the refuge by 1½ hours after sunset. You may not leave decoys, boats, vehicles, and other personal property on the refuge overnight.

7. We have a Special Blind Area for use by the disabled. We prohibit trespass for any reason by any individual not registered to utilize that area.

* * * * *

31. In § 32.66 Virginia by:

a. Revising paragraph C. of James River National Wildlife Refuge;

b. Adding Occoquan National Wildlife Refuge;

c. Revising paragraph C. of Presquile National Wildlife Refuge;

d. Adding Rappahannock River Valley National Wildlife Refuge; and

e. Adding Wallops Island National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

* * * * *

James River National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge subject to the following conditions:

1. Hunters must carry a refuge permit at all times on the refuge.

2. You may not discharge a firearm or archery equipment across or within any refuge road, as designated on the refuge hunt maps.

3. We close the refuge to all hunting from December 1 until the end of the State hunting season to protect roosting and nesting bald eagles.

4. Hunters in the field shall retrieve and maintain in their custody all crippled and killed game, if possible.

5. You may not transport a loaded firearm in any vehicle on the refuge.

6. On the refuge deer hunters, when hunting with guns, must wear a minimum of 400 square inches (2,600 cm^2) of solid blaze orange visible from 360 degrees.

7. We allow only portable tree stands on the refuge, and hunters must remove them at the end of the day.

8. We prohibit hunting with dogs.

9. We prohibit camping on refuge lands.

10. We prohibit the use of open fires.

* * * * *

Occoquan Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. We require a refuge permit.

2. Hunters must have in their possession at all times a copy of the refuge permit containing the refuge regulations, their hunting license, and, if issued, their State-issued deer management assistance program (DMAP) tag.

3. We will select specific hunting dates within the State seasons. Consult the refuge office for information on specific hunt dates.

4. You may not transport a loaded firearm in any vehicle on any refuge road or right of way.

5. Hunters must wear in a conspicuous manner on chest and back a minimum of 400 square inches (2,600 cm^2) of solid hunter orange clothing or material and a hunter orange cap or hat.

D. *Sport Fishing.* [Reserved]

* * * * *

Presquile National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge subject to the following conditions:

1. Hunters must carry a refuge permit at all times on the refuge.

2. You may not discharge a firearm or archery equipment across or within any refuge road, as designated on the refuge hunt maps.

3. We close the refuge to all hunting from December 1 until the end of the State hunting season to protect roosting and nesting bald eagles.

4. Hunters in the field shall retrieve and maintain in their custody all crippled and killed game, if possible.

5. You may not transport a loaded firearm in any vehicle on the refuge.

6. On the refuge deer hunters, when hunting with guns, must wear a minimum of 400 square inches (2,600 cm^2) of solid blaze orange visible from 360 degrees.

7. We allow only portable tree stands on the refuge, and hunters must remove them at the end of the day.

8. We prohibit hunting with dogs.

9. We prohibit camping on refuge lands.

10. We prohibit the use of open fires.

* * * * *

Rappahannock River Valley National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge subject to the following conditions:

1. Hunters must carry a refuge permit at all times on the refuge.

2. You may not discharge a firearm or archery equipment across or within any refuge road, as designated on the refuge hunt maps.

3. We close the refuge to all hunting from December 1 until the end of the State hunting season to protect roosting and nesting bald eagles.

4. Hunters in the field shall retrieve and maintain in their custody all crippled and killed game, if possible.

5. You may not transport a loaded firearm in any vehicle on the refuge.

6. On the refuge deer hunters, when hunting with guns, must wear a minimum of 400 square inches (2,600 cm^2) of solid blaze orange visible from 360 degrees.

7. We allow only portable tree stands on the refuge, and hunters must remove them at the end of each hunt day.

8. We prohibit hunting with dogs.

9. We prohibit camping on refuge lands.

10. We prohibit the use of open fires.

D. *Sport Fishing.* [Reserved]

Wallops Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations and the following conditions:

1. We require a refuge permit.

2. We do not allow dogs.

3. We allow only portable tree stands on the refuge, and hunters must remove them at the end of each hunt day.

4. Hunters must comply with refuge check-in and check-out procedures as specified on the hunt permit.

5. During firearms big game season, including scouting days, hunters must wear in a conspicuous manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material.

6. We prohibit camping.

7. We prohibit the use of open fires.

D. Sport Fishing. [Reserved]

32. In § 32.67 Washington by:

a. Adding paragraphs A.4., A.5., A.6., A.7., B.4., and B.5., revising the introductory text of paragraph C., and adding paragraphs C.3. and C.4. of Hanford Reach National Monument/ Saddle Mountain National Wildlife Refuge; and

b. Revising McNary National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Hanford Reach National Monument/ Saddle Mountain National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

4. We do not allow hunters or dogs to enter closed areas to retrieve game.

5. We do not allow permanent or pit blinds or cutting vegetation on the refuge. You must remove all blind materials, decoys, and other equipment (including spent casings) following each day's hunt.

6. We allow nonmotorized boats and boats with electric motors on the WB–10 Ponds (Wahluke Lake), with walk-in access only.

7. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along public rights of way.

B. Upland Game Hunting. * * *

* * * * *

4. We do not allow hunters or dogs to enter closed areas to retrieve game.

5. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along public rights of way.

C. Big Game Hunting. We allow hunting of deer and elk on the Wahluke Unit of the Monument/Refuge in accordance with State regulations and subject to the following conditions:

* * * * *

3. We do not allow hunters to enter closed areas to retrieve game.

4. You must unload and encase or dismantle firearms before transporting them in a vehicle or boat within the boundaries of the refuge or along public rights of way.

* * * * *

McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of geese, ducks, coots, doves, and common snipe on designated areas of the refuge subject to the following conditions:

1. You may possess no more than 25 approved nontoxic shotshells while in the field.

2. You may not leave decoys and other personal property on the refuge overnight.

3. On the McNary Division, we allow hunting by refuge permit only. This area is open to hunting from 5:00 a.m. to 1½ hours after sunset.

4. On the Wallula and Two Rivers Units, we allow waterfowl hunting 7 days a week during State waterfowl seasons. We allow dove hunting in accordance with State regulations.

5. On the Wallula Unit, we close the Walla Walla Delta to hunting from February 1 to September 30.

6. On the Peninsula Unit we allow dove hunting in accordance with State regulations. We allow waterfowl hunting subject to the following conditions:

i. We allow duck hunting Wednesdays through Sundays only.

ii. We allow goose hunting Wednesdays, Saturdays, and Sundays only.

iii. On Wednesdays we allow waterfowl hunting only from the goose pits.

iv. Hunting on the east side of the peninsula and in the goose pits is by assigned blinds on a first-come, first-served basis.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

1. Except on the Peninsula Unit, you may possess no more than 25 approved nontoxic shotshells while on the refuge.

2. On the McNary Division we allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day only. We do not allow hunting until noon of each hunt day. We allow hunting of pheasant and quail only.

3. On the Wallula and Two River Units, we allow upland game hunting in accordance with State regulations.

4. On the Peninsula Unit, we do not allow hunting until noon on legal goose hunting days.

C. Big Game Hunting. We allow hunting of deer only on the Peninsula, Two Rivers, and Wallula Units in accordance with State regulations and subject to the following condition: We allow shotgun and archery hunting only.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. On the McNary Division the refuge is open to fishing from sunrise to sunset only. We do not allow use of boats and other flotation devices.

2. We allow fishing only with hook and line.

* * * * *

33. In § 32.69 Wisconsin by adding Whittlesey Creek National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

* * * * *

Whittlesey Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

1. We allow only the use of portable or temporary blinds.

2. You must remove portable or temporary blinds and any material brought on to the refuge for blind construction at the end of each day's hunt.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

34. In § 32.70 Wyoming by revising Seedskadee National Wildlife Refuge to read as follows:

§ 32.70 Wyoming.

* * * * *

Seedskadee National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of ducks, coots, dark geese, common snipe, rails, and mourning doves on designated areas of the refuge in accordance with State regulations and the following conditions:

1. Waterfowl hunters may enter the refuge 1 hour before legal shooting hours to set up decoys and blinds.

2. You may use only portable blinds or blinds constructed from dead or downed wood. We prohibit digging pit blinds.

3. You must unload and encase or dismantle all firearms when transporting them in a vehicle or boat under power.

4. You may possess only approved nontoxic shot.

B. Upland Game Hunting. We allow hunting of sage grouse, cottontail rabbit, red fox, jackrabbit, raccoon, and skunk on designated areas of the refuge in

accordance with State regulations and the following conditions:

1. You must unload and encase or dismantle all firearms when transporting them in a vehicle or boat under power.

2. You may possess only approved nontoxic shot.

3. We prohibit the shooting of prairie dogs, coyotes, and other species not listed above.

C. Big Game Hunting. We allow hunting of pronghorn, mule deer, and moose on designated areas of the refuge in accordance with State regulations and the following condition: You must unload and encase or dismantle all firearms when transporting them in a vehicle or boat under power.

D. Sport Fishing. You may fish on designated areas of the refuge in accordance with State regulations and general refuge regulations.

35. In § 32.72 Guam by adding paragraphs D.5., D.6., and D.7., of Guam National Wildlife Refuge to read as follows:

§ 32.72 Guam.

* * * * *

Guam National Wildlife Refuge

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D. Sport Fishing. * * *

* * * * *

5. We prohibit use of Self Contained Underwater Breathing Apparatus (SCUBA) to take fish or invertebrates.

6. We prohibit anchoring boats on the refuge.

7. We prohibit sailboards or motorized personal watercraft on the refuge.

Dated: September 5, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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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*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 223/P.L. 107–211

To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Aug. 21, 2002; 116 Stat. 1050)

H.R. 309/P.L. 107–212

Guam Foreign Investment Equity Act (Aug. 21, 2002; 116 Stat. 1051)

H.R. 601/P.L. 107–213

To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes. (Aug. 21, 2002; 116 Stat. 1052)

H.R. 1384/P.L. 107–214

Long Walk National Historic Trail Study Act (Aug. 21, 2002; 116 Stat. 1053)

H.R. 1456/P.L. 107–215

Booker T. Washington National Monument Boundary Adjustment Act of 2002 (Aug. 21, 2002; 116 Stat. 1054)

H.R. 1576/P.L. 107–216

James Peak Wilderness and Protection Area Act (Aug. 21, 2002; 116 Stat. 1055)

H.R. 2068/P.L. 107–217

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, ''Public Buildings, Property, and Works''. (Aug. 21, 2002; 116 Stat. 1062)

H.R. 2234/P.L. 107–218

Tumacacori National Historical Park Boundary Revision Act of 2002 (Aug. 21, 2002; 116 Stat. 1328)

H.R. 2440/P.L. 107–219

To rename Wolf Trap Farm Park as ''Wolf Trap National Park for the Performing Arts'', and for other purposes. (Aug. 21, 2002; 116 Stat. 1330)

H.R. 2441/P.L. 107–220

To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes. (Aug. 21, 2002; 116 Stat. 1332)

H.R. 2643/P.L. 107–221

Fort Clatsop National Memorial Expansion Act of 2002 (Aug. 21, 2002; 116 Stat. 1333)

H.R. 3343/P.L. 107–222

To amend title X of the Energy Policy Act of 1992, and for other purposes. (Aug. 21, 2002; 116 Stat. 1336)

H.R. 3380/P.L. 107–223

23 To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. (Aug. 21, 2002; 116 Stat. 1338)

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