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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 14, 2000, at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Thursday, October 26, 2000

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 330 and 351

RIN 3206–AJ18

Placement Assistance and Reduction in Force Notices

AGENCY: Office of Personnel Management.

ACTION: Interim regulations.

SUMMARY: The Office of Personnel Management is issuing interim placement assistance and reduction in force regulations to replace references to the repealed Job Training Partnership Act with references to the new Workforce Investment Act of 1998.

DATES: These regulations are effective November 27, 2000. Written comments will be considered if received no later than December 26, 2000.

ADDRESSES: Send written comments to Carol J. Okin, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Pam Galemore, 202–606–0960, FAX 202–606–2329, TDD (202)606–0023, or by e-mail at pjgalemo@opm.gov.

SUPPLEMENTARY INFORMATION: The Job Training Partnership Act (JTPA), established under Public Law 97–300, October 12, 1982, as amended, required states to provide employment assistance programs to dislocated workers and others as defined in the Act. Since 1995, through Office of Personnel Management regulations published in sections 330.405, 351.803, and 351.807 of title 5, Code of Federal Regulations (CFR), agencies have been required to give employees affected by reduction in force information about JTPA programs in their specific reduction in force notices.

The JTPA was repealed effective July 1, 2000. States are now required to provide placement assistance programs through the Workforce Investment Act (WIA) of 1998, Public Law 105–220, August 7, 1998. This change was incorporated into the reduction in force statute at 5 U.S.C 3502 through Public Law 105–277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, section 405, October 21, 1998.

These revised regulations are issued solely to replace references to the repealed JTPA with its successor statute, the WIA, as required by the amendments to 5 U.S.C. 3502 mandated by Public Law 105–277. No other wording is changed.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 330 and 351

Administrative practice and procedure, Armed forces reserves, Government Employees, Individuals with disabilities.

Office of Personnel Management
Janice R. Lachance,
Director.

Accordingly, the Office of Personnel Management is amending 5 CFR parts 330 and 351 as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218.

Section 330.102 also issued under 5 U.S.C. 3327.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Section 330.401 also issued under 5 U.S.C. 3310.

Subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 738.

Subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

Subpart D—Positions Restricted to Preference Eligibles

2. In § 330.405, paragraph (b) is revised to read as follows:

§ 330.405 Agency placement assistance.

* * * * *

(b) Cooperating with State units as designated or created under title I of the Workforce Investment Act of 1998, to retrain displaced preference eligibles for other continuing positions.

PART 351—REDUCTION IN FORCE

3. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; sec. 351.801 also issued under E.O. 12828, 58 FR 2965.

Subpart H—Notice to Employee

4. In § 351.803, paragraphs (a) and (b)(1) are revised to read as follows:

§ 351.803 Notice of eligibility for reemployment and other placement assistance.

(a) An employee who receives a specific notice of separation under this part must be given information concerning the right to reemployment consideration and career transition assistance under subparts B (Reemployment Priority List), F, and G (Career Transition Assistance Programs) of part 330 of this chapter. The employee must also be given a release to authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to the State unit or entity established under title I of the Workforce Investment Act of 1998 and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State's Workforce Investment Act of 1998 programs, and an estimate of severance pay (if eligible).

(b) * * *

(1) The State or the entity designated by the State to carry out rapid response activities under title I of the Workforce Investment Act of 1998;

* * * * *

5. In § 351.807, paragraphs (a) and (c) are revised to read as follows:

§ 351.807 Certification of Expected Separation.

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Workforce Investment Act of 1998 administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

* * * * *

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Workforce Investment Act of 1998, title I, programs, the Interagency Placement Program, and the Reemployment Priority List.

* * * * *

[FR Doc. 00–27515 Filed 10–25–00; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–325–AD; Amendment 39–11948; AD 2000–22–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737 series airplanes, that currently requires revising the FAA-approved Airplane Flight Manual (AFM). This new amendment revises the AFM procedure in the existing AD to simplify the instructions for correcting a jammed or restricted flight control condition. This amendment is prompted by an FAA determination that the procedure currently inserted in the AFM by the existing AD is not defined adequately. The actions specified in this AD are intended to ensure that the flight crew is advised of the procedures necessary to address a condition involving a jammed or restricted rudder.

DATES: Effective November 13, 2000. Comments for inclusion in the Rules Docket must be received on or before December 26, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–325–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–325–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket No. 2000–NM–325–AD, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Steve O'Neal, Aerospace Engineer, Flight Test Branch, ANM–160S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2699; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On December 23, 1996, the FAA issued AD 96–26–07, amendment 39–9871 (62 FR 15, January 2, 1997), applicable to all Boeing Model 737 series airplanes, to require revising the FAA-approved Airplane Flight Manual (AFM) to include procedures that will enable the flight crew to take appropriate action to maintain control of the airplane during an uncommanded yaw or roll condition, and to correct a jammed or restricted flight control condition. That action was prompted by an FAA determination that such procedures were not defined adequately in the AFM for these airplanes. Because of the potential for uncommanded yaw or roll conditions in these airplanes, and jammed or restricted flight controls, the actions required by that AD are intended to provide the flight crew with a systematic means to isolate flight control hydraulics, eliminate a rudder hardover, and land safely.

Actions Since Issuance of Previous Rule

Since the issuance of AD 96–26–07, the FAA has received information from the Independent 737 Flight Controls Engineering and Test Evaluation Board (ETEB) verifying several failure modes in the rudder system of Model 737–100 and –200 (Initial); 737–300, –400, and –500 (Classic); and 737–600, –700, and –800 (Next Generation) series airplanes that can cause an uncommanded rudder hardover. The failure modes include several single jam modes that can cause an uncommanded rudder hardover, in addition to several latent failures or jams that, when combined with a second failure or jam, could cause an uncommanded rudder hardover. Changes in maintenance procedures will be adopted to enhance the detection of latent failure conditions, reducing the potential for an uncommanded hardover. To eliminate these rudder failure modes, the manufacturer is redesigning the rudder system.

The procedure required by AD 96–26–07, and revised by this AD, is not as complete a solution to the rudder hardover concern as is the rudder system redesign, for two reasons:

- First, the procedure is not effective throughout the entire flight envelope, having limited effectiveness during the remote possibility of a hardover during takeoff and landing.
- Second, as a general principal, eliminating the possibility of an in-flight situation is a better alternative than relying on flight crew action to correct such a situation.

The rudder system redesign is likely to eliminate the need for procedures dealing with jammed or restricted flight control conditions, but retrofit of the hardware on existing airplanes will take several years to complete. During this time, procedures for jammed or restricted flight control conditions will continue to be necessary. The ETEB determined that the AFM procedure addressing a jammed or restricted rudder required by AD 96–26–07 is inadequate and must be revised. During evaluations of the existing procedure, the ETEB determined that flight crews were confused by the procedure and were not always able to complete it during simulated rudder system malfunctions. Therefore, the FAA has determined that a revised procedure titled "Uncommanded Rudder," in lieu of the existing procedure titled "Jammed or Restricted Rudder," is necessary in the interim period to ensure airplane safety.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 96–26–07 to require revising the AFM procedure in the existing AD to simplify the instructions for correcting a jammed or restricted flight control condition.

Interim Action

This is considered to be interim action. As previously stated, once the rudder system is redesigned, and the retrofitted rudder is approved and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

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 shall 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.

Submit comments using the following format:

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the 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 rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–325–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it 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 removing amendment 39–9871 (62 FR 15, January 2, 1997), and by adding a new airworthiness directive (AD), amendment 39–11948, to read as follows:

2000–22–02 Boeing: Amendment 39–11948. Docket 2000–NM–325–AD. Supersedes AD 96–26–07, Amendment 39–9871.

Applicability: All Model 737 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is advised of the procedures necessary to address a condition involving a jammed or restricted rudder, accomplish the following:

RESTATEMENT OF CERTAIN REQUIREMENTS OF AD 96–26–07:

(a) Within 30 days after January 17, 1997 (the effective date of AD 96–26–07, amendment 39–9871): Revise the Emergency Procedures Section of the FAA-approved Airplane Flight Manual (AFM) to include the following recall item, which will enable the flight crew to take appropriate action to maintain control of the airplane during an uncommanded yaw or roll condition. This may be accomplished by inserting a copy of this AD in the AFM.

"UNCOMMANDED YAW OR ROLL

RECALL

Maintain control of the airplane with all available flight controls. If roll is uncontrollable, immediately reduce angle of attack and increase airspeed. Do not attempt to maintain altitude until control is recovered. If engaged, disconnect autopilot and autothrottle."

NEW REQUIREMENTS OF THIS AD:

(b) Within 30 days after the effective date of this AD: Revise the Normal Procedures Section of the FAA-approved AFM for Model 737–100 and –200 series airplanes or the Non-Normal Procedures Section of the FAA-approved AFM for Model 737–300, –400, –500, –600, –700, and –800 series airplanes, as applicable, to include the following procedure. This may be accomplished by inserting a copy of this AD in the AFM and removing the existing copy (inserted as required by AD 96–26–07), entitled "Jammed Flight Controls."

UNCOMMANDED RUDDER

Condition: Uncommanded rudder pedal displacement or pedal kicks.

AUTOPILOT (if engaged): DISENGAGE.

Maintain control of the airplane with all available flight controls. If roll is uncontrollable, immediately reduce pitch/angle of attack and increase airspeed. Do not attempt to maintain altitude until control is recovered.

AUTOTHROTTLE (if engaged): DISENGAGE.

Verify thrust is symmetrical.

YAW DAMPER SWITCH: OFF.

RUDDER TRIM: CENTER.

RUDDER PEDALS: FREE & CENTER.

Use maximum force including a combined effort of both pilots, if required to free and center the rudder pedals.

If rudder pedal position or movement is not normal and the condition is not the result of rudder trim:

SYSTEM B FLIGHT CONTROL SWITCH: STBY RUD.

A slight rudder deflection may remain, but continued rudder pedal pressure may help maintain an in-trim condition.

Sufficient directional control is available on landing using differential braking and nose wheel steering.

Crosswind capability may be reduced.

Do not use autobrakes.

Consider checking rudder freedom of movement at a safe altitude using slow rudder inputs while in the landing configuration and at approach speed.

If condition was the result of rudder trim or environmental factors:

YAW DAMPER SWITCH: ON.

Accomplish the normal DESCENT—APPROACH and LANDING checklists."

(c) It is acceptable to modify the format of the above procedure to reflect the format used by individual carriers. However, the procedural sequence, memory items, and/or associated text may not be modified, except by submitting a request for an alternative method of compliance (AMOC) as specified in paragraph (d) of this AD.

Alternative Methods of Compliance

(d) An AMOC or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Effective Date

(f) This amendment becomes effective on November 13, 2000.

Issued in Renton, Washington, on October 20, 2000.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27508 Filed 10–25–00; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Delegation of Authority to Disclose and Request Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending certain provisions of its part 140 regulations to add the Director and Deputy Director of the Commission's Office of International Affairs as persons to whom certain authorities are delegated.

EFFECTIVE DATE: October 26, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Deputy Director, Office of International Affairs, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5645. E-mail: rrosen-field@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Delegation

Commission regulations have been amended to add the Director of the Office of International Affairs (Director) and, in certain circumstances the Deputy Director, as persons authorized in appropriate cases to disclose certain non-public information to other governmental, judicial or market authorities in carrying out his or her duties. The amendments would affect the authority to disclose: (1) Information to a contract market, registered futures association or self-regulatory organization (17 CFR 140.72), and (2) information to United States (U.S.), States and foreign government agencies and foreign futures authorities (17 CFR 140.73). This authority will facilitate OIA's ability to coordinate and share information with foreign authorities for regulatory oversight, fitness inquiries and other regulatory purposes.

II. Related Matters

A. Administrative Procedure Act

The Commission has determined that this delegation of authority relates solely to agency organization, procedure and practice. Therefore, the provisions of the Administrative Procedure Act that generally require notice of proposed rulemaking and that provide other opportunities for public participation [1] are not applicable. The Commission further finds that, because the rules have no adverse effect upon a member of the public, there is good cause to make them effective immediately upon publication in the **Federal Register.**

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [2] requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rules discussed herein are only an administrative delegation and will have no impact on registered entities or other persons subject to the Commission's regulatory authority. The rules solely authorize the transmission of information and do not impose any regulatory burden. Moreover, even assuming such impact, the Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA, and determined that contract markets, futures commission merchants (FCMs) large traders and commodity pool operators (CPOs) are not small entities under the RFA. [3] With respect to commodity trading advisors (CTAs) and introducing brokers (IBs), the Commission stated that it would evaluate within the context of a particular proposal whether all or some affected CTAs and IBs should be considered small entities and if so, that it would analyze the economic impact on them of any rule.[4] As noted above, this rule does not change any obligations or otherwise impose any regulatory burdens. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these rule amendments will not have a significant impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 140

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing and pursuant to the authority contained in the Act and, in particular, Sections 2a and 8a,[5] the Commission is amending Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 140—[AMENDED]

1. The authority citation for Part 140 continues to read as follows:

Authority: 7 U.S.C. 4a and 12a.

[1] 5 U.S.C. 553 (1994).

[2] 5 U.S.C. 601 *et seq.* (1994).

[3] 47 FR 18618, 18618–18621 (April 30, 1982).

[4] *Id.* at 18618–18620.

[5] 7 U.S.C. 4a and 12a (1994).

§ 140.72 [Amended]

2. Paragraph (a) of § 140.72 is amended by removing "and each of the Directors of the Market Surveillance Branches" and adding, "each of the Directors of the Market Surveillance Branches, the Director of the Office of International Affairs and the Deputy Director of the Office of International Affairs" in its place.

§ 140.73 [Amended]

3. Paragraph (a) of § 140.73 is amended by adding, "and the Director of the Office of International Affairs or, in his or her absence, the Deputy Director of the Office of International Affairs" after "each Deputy Director of the Division of Trading and Markets."

Issued in Washington, DC on October 19, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–27481 Filed 10–25–00; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–43461, File No. S7–18–98]

RIN 3235–AH30

Amendments to Rule 9b–1 Under the Securities Exchange Act of 1934 Relating to the Options Disclosure Document

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is adopting amendments to Rule 9b–1 ("Rule") under the Securities Exchange Act of 1934 ("Exchange Act"). Rule 9b–1 governs the filing and dissemination of, and the information to be included in, an options disclosure document. The amendments are intended to provide greater clarity to the Rule's provisions, while continuing a regulatory scheme that fosters investors' understanding of the characteristics and risks of standardized options.

EFFECTIVE DATE: This final rule is effective November 27, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy J. Sanow, Assistant Director, at (202) 942–0796, or Steven Johnston, Special Counsel, at (202) 942–0795, Office of Market Supervision, Division of Market Regulation, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Rule 9b–1 [1] under the Securities Exchange Act of 1934 [2] to make technical and clarifying changes to the Rule to better reflect the disclosure requirements regarding standardized options.

I. Introduction

In June 1998, the Commission published for comment amendments to Rule 9b–1 under the Exchange Act to revise certain language in the Rule to better reflect the disclosure requirements regarding standardized options.[3] The changes are minor or technical in nature and do not alter the basic purpose of the Rule, namely, to ensure the dissemination of essential options information to less sophisticated investors in a manner that they can easily understand. The changes should also help to ensure that the Rule addresses the evolving nature of the markets for standardized options.[4] The Commission received two comments supporting the proposal and is adopting the revisions as proposed.

II. Background

In general, Rule 9b–1: (i) Specifies when a self-regulatory organization is required to file an options disclosure document ("ODD") with the Commission; (ii) itemizes the information required to be contained in the ODD; (iii) describes the Commission's process of reviewing a preliminary ODD; and (iv) establishes the obligations of broker-dealers to furnish the ODD prior to approving a customer's account for trading in options.

Rule 9b–1 provides that an options disclosure document containing the information specified in paragraph (c) of the Rule must be filed with the Commission by an options market [5] at least 60 days prior to the date definitive copies of the document are furnished to customers. Rule 9b–1(c) specifies that, with respect to the options classes covered by the ODD, the document must contain, among other things, a discussion of the mechanics of buying, writing, and exercising the options; the risks of trading the options; the market for the option; and a brief reference to the transaction costs, margin requirements, and tax consequences of options trading. Further, Rule 9b–1(d) provides that no broker or dealer shall accept an options order from a customer, or approve the customer's account for the trading of options, "unless the broker or dealer furnishes or has furnished to the customer the options disclosure document."

Adopted in 1982, the Rule is intended to foster better investor understanding of standardized options trading and to reduce the costs of issuer compliance with the registration requirements of the Securities Act of 1933 ("Securities Act").[6] Prior to the Rule's adoption, it was necessary for an options issuer to file a registration statement containing detailed information about the issuer of the options and the mechanics of options trading, to meet the registration requirements of the Securities Act. These registration requirements, however, made the prospectus "lengthy and complicated" and did not meet the needs of less sophisticated options investors.[7] Accordingly, the Commission developed a disclosure document that contains information concerning the risks and uses of options trading and presents the information in a manner easily understandable by investors lacking a financial background. With the adoption of Rule 9b–1, the Commission established a new disclosure procedure specifically geared to satisfying the information needs of investors in standardized options.[8]

Following the adoption of Rule 9b–1, an options disclosure document was prepared jointly by The American Stock Exchange LLC, the Chicago Board Options Exchange, Inc. ("CBOE"), the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and The Options Clearing Corporation ("OCC"). The

[1] 17 CFR 240.9b–1.

[2] 15 U.S.C. 78a *et seq.*

[3] Securities Exchange Act Release No. 40129 (June 25, 1998), 63 FR 36138 (July 1, 1998) ("Proposing Release").

[4] The term "standardized options" is defined as "options contracts trading on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration date and exercise prices, or such other securities as the Commission may, by order, designate." 17 CFR 240.9b–1(a)(4).

[5] The term "options market" is defined as "a national securities exchange, an automated quotation system of a registered securities association or a foreign securities exchange on which standardized options are traded." 17 CFR 240.9b–1(a)(1).

[6] *See* Securities Exchange Act Release Nos. 18836 (June 24, 1982), 47 FR 28688 (July 1, 1982) ("1982 Proposing Release") and 19055 (Sept. 16, 1982), 47 FR 41950 (Sept. 23, 1982) ("1982 Adopting Release").

[7] 1982 Proposing Release, *id.* at 47 FR 28688.

[8] Concurrent with the adoption of Rule 9b–1, the Commission adopted a Form S–20 for the registration of standardized options under the Securities Act. 1982 Adopting Release, *supra* note 6, 47 FR at 41951–2. This Form requires the filing of information relating to standardized options and their issuer. The Form must be filed with the Commission by the issuer and become effective before an options disclosure document may be distributed. 17 CFR 240.9b–1(b)(1).

initial disclosure document consisted of a single booklet that generally described the risks and uses of exchange-listed options on individual equity securities. Since that time, several revised disclosure booklets have been published that describe, among other things, the risks and uses of listed options on stock indexes, debt instruments, and foreign currencies. Currently, the ODD utilized by the U.S. options exchanges is entitled "Characteristics and Risks of Standardized Options.[9]

The Commission determined that Rule 9b–1 would be clearer if certain technical amendments were made. While the substantive goals of the Rule did not require revision, the Rule required specific changes to make the language more precise. The changes are technical in nature and only codify current practice as it has evolved over time. The specific changes are discussed more fully below.

III. Discussion

The Commission received two comments on the proposed changes to Rule 9b–1.[10] The OCC commented that the proposal would eliminate uncertainty and urged the Commission to promptly adopt the proposed changes to Rule 9b–1.[11] The Philadelphia Stock Exchange, Inc. ("Phlx") commented that the proposed changes to Rule 9b–1 would better reflect the Rule's underlying intent and provide more precise and clear language.[12] The Commission agrees with these comments and is adopting Rule 9b–1 as proposed.

Paragraph (a)(3) of the Rule, the definition of an "options disclosure document," is being amended to explicitly state that the amendments and supplements to the ODD are included as part of the ODD. New financial products have been introduced into the standardized options marketplace such as Flexible Exchange Options on specified equity securities ("FLEX Equity options")[13] and Long-Term Index Option series ("LEAPS").[14] Descriptions of these and other similar products are often initially incorporated into the ODD through a supplement and delivered to the customer along with the bound ODD. These amendments remove the potential ambiguity regarding whether such supplements are part of the ODD and should be delivered to customers. In addition, paragraph (a)(3) of the Rule is being amended to conform the definition of "definitive options disclosure document" to Rules 134a and 135b under the Securities Act.[15]

Several technical clarifying changes are also being made to the Rule. In paragraph (b)(2)(i), the word "options" is inserted before the phrase "disclosure document." Similarly, in paragraph (b)(2)(ii), the phrase "options disclosure document" replaces the phrase "such material," and the phrase "options classes covered by the document" replaces the more general language of "the subject standardized options contracts." In paragraphs (b)(2) (i) and (ii), the Rule is also being amended to clarify that both amendments and supplements to the ODD are permissible and clarifies the issuer's obligation to supply supplements to investors and the Commission. Additionally, paragraph (c)(6) is amended to add the phrase "the identification of" before the phrase "the issuer of the options." The Commission believes that the new language clarifies the Rule language and eliminates potential ambiguity.

The Rule's current provisions requiring that the ODD contain information regarding the "mechanics of buying, writing and exercising options, including settlement procedures" and "the risks of trading options" are amended to better reflect the information that should be included in the ODD. Specifically, paragraph (c)(2) now requires a discussion of the "mechanics of exercising" options and paragraph (c)(3) now requires a discussion of the risks of "being a holder or writer" of options. These amendments are intended to make clear that the exchanges are not required to provide information via the ODD to customers on how to "trade" options, such as information regarding investment strategies. To clarify the intended scope of information included within the ODD, paragraph (c)(4) of the Rule is amended to require "the identification of the market or markets in which the options are traded," rather than a discussion of the "market for the options." Also, paragraph (c)(7) is amended to require a "general" discussion of the "type" of instruments underlying the options classes. The Commission believes that these changes help clarify the purpose of the ODD and do not require any changes to the current disclosures in the ODD.

Paragraphs (d)(1) and (2) are also being amended to reflect the revised definition of "definitive options disclosure document" contained in paragraph (a)(3). Again, this change does not affect the substantive nature of the Rule, but merely conforms the terminology to accurately reflect references in Rules 134a and 135b under the Securities Act.[16] Paragraph (d)(2) is also being amended to reflect the inclusion of supplements noted in revised paragraphs (b)(2) (i) and (ii).

IV. Cost-Benefit Analysis

The Commission believes that the amendments are likely to benefit investors and do not have any costs associated with them. To assist the Commission in its evaluation of the costs and benefits that may result from the amendments, commenters were requested to provide analysis and data, if possible, relating to costs and benefits associated with the proposal. While the two comments received supported the amendments, no comments were received concerning the costs to investors, broker-dealers or others. The Commission anticipates that the proposed amendments will not change any substantive disclosure obligations or currently existing compliance costs, but will rather clarify the disclosure requirements and goals regarding standardized options products, and thereby benefit investors.

V. Consideration of Burden on Competition

Section 23(a)(2) of the Exchange Act requires that the Commission, when promulgating rules under the Exchange Act, consider, among other matters, the impact any such rules would have on

[9] In addition to the ODD utilized by the U.S. options exchanges, several foreign markets have filed ODDs with the Commission which enables them to effect options transactions with U.S. market participants under certain conditions. These ODDs are modeled after the U.S. options market ODD.

[10] *See* Letter from James Yong, First Vice President and General Counsel, The Options Clearing Corporation, to Jonathan G. Katz, Secretary, Securities and Exchange Commission, dated August 26, 1998 ("OCC Letter"); Letter from Edith Hallahan, Vice President and Associate General Counsel, Philadelphia Stock Exchange ("Phlx"), to Jonathan G. Katz, Secretary, Securities and Exchange Commission, dated August 28, 1998 ("Phlx Letter").

[11] OCC Letter, p. 2.

[12] Phlx Letter, p. 1.

[13] *See* Securities Exchange Act Release No. 36841 (Feb. 14, 1996), 61 FR 6666 (Feb. 21, 1996) (order approving the listing of FLEX Equity Options) (CBOE–95–43).

[14] *See* Securities Exchange Act Release No. 35617 (Apr. 17, 1995), 60 FR 20132 (Apr. 24, 1995) (order approving the listing of LEAPS) (CBOE–95–02).

[15] Rule 134a states that written materials related to standardized options will not be deemed to be a prospectus for purposes of Section 2(10) of the Securities Act provided that, among other conditions, such materials are limited to explanatory information describing the general nature of the standardized options markets. 17 CFR 230.134a. Rule 135b states that, for purposes of Section 5 of the Securities Act, materials meeting the requirements of Rule 9b–1 of the Exchange Act will not be deemed to constitute either an offer to sell or an offer to buy any security. 17 CFR 230.134b.

[16] 17 CFR 230.134a; 17 CFR 230.134b.

competition and not adopt any rule that would impose a burden on competition that is not necessary or appropriate in the public interest.[17] In the Proposing Release, the Commission solicited comments on the effect on competition. The Commission received no comments regarding this issue. The Commission has considered the amendments in light of the standards cited in section 23(a)(2) of the Exchange Act and believes that they would not impose any burden on competition.

Because the amendments are intended to clarify the exchanges' obligations to make certain disclosures to customers via the ODD, the changes should not materially affect the substance of the existing required disclosures or the filing or delivery obligations under the Rule. The Commission does not expect that the amendments will impose any additional costs on the exchanges and will help to remove potential ambiguities in the Rule. Thus, the Commission believes that the amendments should impose no burdens on competition.

VI. Promotion of Efficiency, Competition, and Capital Formation

Section 3(f)[18] of the Exchange Act requires the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. No comments were received on this point. The Commission believes that the amendments will reduce potential investor confusion and help to clarify the Rule's goals and objectives. In addition, the Commission believes that making such clarifying changes to the Rule will help to enhance the operation of the options markets. The Commission further believes that the changes to the Rule will help issuers understand their obligations and enhance opportunities for capital formation in the options markets. Accordingly, the Commission believes that the amendments being adopted today promote efficiency, competition, and capital formation.

VII. Regulatory Flexibility Act Consideration

Pursuant to section 605(b) of the Regulatory Flexibility Act,[19] the Chairman of the Commission has certified that Rule 9b–1 would not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, was attached to the Proposing Release as Appendix A. The Commission solicited comments concerning the impact on small entities and the Regulatory Flexibility Act certification, but received no comments.

VIII. Paperwork Reduction Act

Certain provisions of Rule 9b–1 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").[20] The Commission previously submitted the Rule to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and OMB has assigned the Rule OMB control number 3235–0480. Because the amendments should not materially affect the substance of the required disclosures or the filing and delivery obligations under the Rule, there is no requirement that the Commission resubmit the Rule with the amendments to OMB for review under the PRA. The Commission received no comments regarding the analysis under the Paperwork Reduction Act.

IX. Statutory Basis

The amendments to Rule 9b–1 are being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 9 and 23 of the Exchange Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Rule Amendments

In accordance with the foregoing, Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78*ll*(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

2. Section 240.9b–1 is amended by revising paragraphs (a)(3), (b)(2)(i), (b)(2)(ii), (c), and (d) to read as follows:

§ 240.9b–1 Options disclosure document.

(a) * * *

(3) "Options disclosure document" means a document, including all amendments and supplements thereto, prepared by one or more options markets which has been filed with the Commission or distributed in accordance with paragraph (b) of this section. "Definitive options disclosure document" or "document" means an options disclosure document furnished to customers in accordance with paragraph (b) of this section.

* * * * *

(b)(1) * * *

(2)(i) If the information contained in the options disclosure document becomes or will become materially inaccurate or incomplete or there is or will be an omission of material information necessary to make the options disclosure document not misleading, the options market shall amend or supplement its options disclosure document by filing five copies of an amendment or supplement to such options disclosure document with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document, as amended or supplemented, shall be filed with the Commission not later than the date the amendment or supplement, or the amended options disclosure document, is furnished to customers.

(ii) Notwithstanding paragraph (b)(2)(i) of this section, an options market may distribute an amendment or supplement to an options disclosure document prior to such 30 day period if it determines, in good faith, that such delivery is necessary to ensure timely and accurate disclosure with respect to one or more of the options classes covered by the document. Five copies of any amendment or supplement distributed pursuant to this paragraph shall be filed with the Commission at the time of distribution. In that instance, if the Commission determines, having given due regard to the adequacy of the information disclosed and the public interest and the protection of investors, it may require refiling of the amendment pursuant to paragraph (b)(2)(i) of this section.

(c) *Information required in an options disclosure document.* An options disclosure document shall contain the following information, unless otherwise provided by the Commission, with respect to the options classes covered by the document:

[17] 15 U.S.C. 78w(a)(2).

[18] 15 U.S.C. 78c(f).

[19] 5 U.S.C. 605(b).

[20] 44 U.S.C. 3501 et seq.

(1) A glossary of terms;

(2) A discussion of the mechanics of exercising the options;

(3) A discussion of the risks of being a holder or writer of the options;

(4) The identification of the market or markets in which the options are traded;

(5) A brief reference to the transaction costs, margin requirements and tax consequences of options trading;

(6) The identification of the issuer of the options;

(7) A general identification of the type of instrument or instruments underlying the options class or classes covered by the document;

(8) The registration of the options on Form S–20 (17 CFR 239.20) and the availability of the prospectus and the information in Part II of the registration statement; and

(9) Such other information as the Commission may specify.

(d) *Broker-dealer obligations.* (1) No broker or dealer shall accept an order from a customer to purchase or sell an option contract relating to an options class that is the subject of a definitive options disclosure document, or approve the customer's account for the trading of such option, unless the broker or dealer furnishes or has furnished to the customer a copy of the definitive options disclosure document.

(2) If a definitive options disclosure document relating to an options class is amended or supplemented, each broker and dealer shall promptly send a copy of the definitive amendment or supplement or a copy of the definitive options disclosure document as amended to each customer whose account is approved for trading the options class or classes to which the amendment or supplement relates.

Dated: October 19, 2000.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–27479 Filed 10–25–00; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 00–75]

RIN 1515–AC70

Import Restrictions Imposed On Archaeological Material From the Prehispanic Cultures of the Republic of Nicaragua

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological material ranging in date from approximately 8000 B.C. through approximately 1500 A.D. and representing prehispanic cultures of the Republic of Nicaragua. These restrictions are being imposed pursuant to an agreement between the United States and Nicaragua that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document amends the Customs Regulations by adding Nicaragua to the list of countries for which an agreement has been entered into for imposing import restrictions. The document also contains the Designated List of Archaeological Material that describes the types of articles to which the restrictions apply.

EFFECTIVE DATE: October 26, 2000.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Joanne Stump, Intellectual Property Rights Branch (202) 927–2330; (Operational Aspects) Al Morawski, Trade Operations (202) 927–0402.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub.L. 97–446, 19 U.S.C. 2601 *et seq.*) ("the Act"). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and in achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries. More information on import restrictions can be found on the International Cultural Property Protection web site (http://exchanges.state.gov/education/culprop).

Import restrictions are now being imposed on certain archaeological material of Nicaragua representing the prehispanic period of its cultural heritage as the result of a bilateral agreement entered into between the United States and Nicaragua pursuant to 19 U.S.C. 2602. This agreement was signed on June 16, 1999, and, following completion by the Government of Nicaragua of all internal legal requirements, entered into force on October 20, 2000, with the exchange of diplomatic notes. Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Nicaragua. This document amends the regulations by imposing import restrictions on certain archaeological material from Nicaragua as described below.

Material Encompassed in Import Restrictions

In reaching the decision to recommend protection for Nicaragua's cultural patrimony, the Deputy Director of the former U.S. Information Agency (USIA) has determined that, pursuant to the requirements of the Act, the cultural patrimony of Nicaragua is in jeopardy from the pillage of archaeological materials which represent its

prehispanic heritage. (Pursuant to the Foreign Affairs Reform and Restoration Act of 1998 (112 Stat. 2681, *et seq.*), most of USIA was consolidated with the Department of State on October 1, 1999.) Ranging in date from approximately 8000 B.C. to approximately 1500 A.D., categories of restricted artifacts include, but are not limited to: figurines of stone, ceramic, shell, and metal; ceramic polychrome vessels, drums, and other small ceramic objects; stone vessels, stone statues, small stone artifacts, and stone metates (carved three-legged grinding stones); and jade and metal (gold) artifacts. These materials of cultural significance are irreplaceable. The pillage of these materials from their context has prevented the fullest possible understanding of the prehispanic cultural history of Nicaragua by systematic destruction of the archaeological record. Furthermore, the cultural patrimony represented by these materials is a source of identity and esteem for the modern Nicaraguan nation.

Designated List

The bilateral agreement between Nicaragua and the United States covers the categories of artifacts described in a Designated List of Pre-Columbian (prehispanic) Archaeological Materials from Nicaragua, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certificate issued by the Government of the Republic of Nicaragua or documentation demonstrating that the articles left the country of origin prior to the effective date of the import restriction.

Pre-Columbian Archaeological Materials From Nicaragua Representing Prehispanic Cultures Ranging In Date Approximately From 8000 B.C. to 1500 A.D.

I. Ceramics

The diverse regions of Nicaragua have produced a wide variety of ceramic types and subtypes. Representative types are listed below according to their earliest occurrence but may continue into the succeeding period.

A. Vessels

1. *Period III (c. 4000–1000 B.C.)*—Types include Toya Incised, Palmar Incised, Rosales Zoned Engraved, Espinoza Red Striped, Rivas Negative, Usulutan-like styles, and Cukra Point Complex.

2. *Period IV (c. 1000 B.C.–500 A.D.)*—Types include Bocana Incised, Matanga Polychrome, Red Jobo Excised, Chaguitillo Polychrome, Rodeo Sieve, Red Andes Incised, Jicaro Polychrome, Red Coyolito Engraved, Bonifacio Excised and Engraved, Guarumo Incised and Punctate, Red-on-Biege Nispero, White-on-Brown Capulin, Black-on-Beige Yoboa Excised Polychrome, Jarkin Complex, Smalla Complex, and Siteia Complex.

3. *Period V (c. 500–1000 A.D.)*—Types include Chavez White-on-Red, Velasco with Black Stripes, Potosi Applique, Leon Punctate, Tola Trichrome, Papagayo Polychrome, Mora Polychrome, Sacasa Striated, Pataky Polychrome, Ometepe Red-Slipped Incised, Delirio Red-on-White, Subasa Polychrome, Oregano Polychrome, Zamora Incised, Red-and-Black Drum, Arrayan Black Incised, Ulua Polychrome, Babilonia Polychrome, Cacauli Red-on-Orange, Tenampua Polychrome, Tapias Polychrome.

4. *Period VI (c. 1000–1550 A.D.)*—Types include Vallejo Polychrome, Castillo Engraved, Luna Polychrome, Madeira Polychrome, Murrillo Applique, Patastule-on-Red Bands, Combo Sieve, Carlitos Polychrome, Red-and-White Oluma, Miragua, Red Coronado.

B. Seals and Beads

Seals are small cylindrical objects with a hole lengthwise through the center, usually made of ceramic, used to roll an impressed pattern. Their usual size is about 5 cm long and about 2.5 cm in diameter. Also present are flat rectangular stamp seals. These are carved with geometric designs or stylized human figures. Ceramic beads also occur.

C. Spindle Whorls

Disk and conical-shaped ceramic objects, 2–7 cm in diameter, used as spindle whorls. Most have incised geometric designs.

II. Stone

A. Statues (c. 800–1550 A.D.)

These seated, standing, or columnar stone statues are characteristic of the islands in Lake Nicaragua and the Chontales and Rivas areas around the lakes. Made of well-finished basalt, they reach up to four meters in height. Some examples may date earlier than 800 A.D. The most characteristic subject is a human figure and an associated animal. The animal is either lying on the back and shoulders of the human figure or an animal head resting on top of the human head. Other subjects include human figures sitting on a column or with arms bent across the chest.

B. Vessels

Ceremonial vessels are made of stone in the typical ceramic styles. These are mainly known from the northern area of Nicaragua and they are similar in style to vessels originating in Honduras.

C. Grinding Stones

Grinding stones (*metates*) are usually carved of basalt. Most often, they consist of a simple curved platform supported by three legs. They range in length from about 60 cm to 150 cm. The type most commonly collected is elaborately carved with geometric or anthropomorphic motifs on the legs and sides. Sometimes an effigy head, such as a bird or other animal, is added to one end. These are known to occur in the Pacific coastal area and the islands in Lake Nicaragua.

D. Petroglyphs (Incised or Carved Natural Rock Formations)

Geometric designs or relief figures representing humans and animals carved directly into living rock. These are found throughout Nicaragua. Some of the best known come from the islands in Lake Nicaragua. These are frequently cut out of the natural rock formation and removed from their original context.

E. Mace Heads

Small, highly polished, spherical, or oblong objects of various kinds of stone, with a hole through the center. Mace heads are frequently in the form of animal or human heads, or with geometrical designs carved into the surface. Their maximum dimension ranges from about two to six inches. They are best known from the Pacific coastal area.

F. Greenstone Objects

A wide variety of highly polished ornamental small objects, usually pendants made of green-colored quartz, jadeite, serpentine, and similar materials. Human, animal, and other motifs are represented, although birds are most common. The objects range in size from about two to six inches, and they are usually drilled for suspension.

G. Jewelry

Stone beads and other items for personal adornment.

H. Chipped Stone Tools

Arrowheads and other tools or weapons.

III. Gold

Pendants and other decorative ornaments with a wide variety of shapes and motifs, including animal and human figures. The gold is sometimes

mixed with copper giving the objects a slightly reddish appearance.

IV. Shell

Natural shell pierced for stringing in necklaces.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed cultural property of Nicaragua is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the table is amended by adding Nicaragua in appropriate alphabetical order as follows:

State	Cultural property	T.D. No.
* * * * * * *		
Nicaragua	Archaeological Material of pre-Columbian cultures ranging approximately from 8000 B.C. to 1500 A.D.	T.D. 00–75
* * * * * * *		

* * * * *

Raymond W. Kelly,

Commissioner of Customs.

Approved: September 8, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–27593 Filed 10–25–00; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI99–01–733a, FRL–6891–3]

Approval and Promulgation of Maintenance Plan Revisions; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a September 8, 2000, request from Wisconsin for a State Implementation Plan (SIP) revision of the Walworth County ozone maintenance plan. The maintenance plan revision establishes a new transportation conformity Mobile Vehicle Emissions Budget (MVEB) for the year 2007. EPA is approving the allocation of a portion of the safety margin for Volatile Organic Compounds (VOC) to the area's 2007 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for oxides of nitrogen (NO_x) will remain the same as previously approved in the maintenance plan.

DATES: This rule is effective on December 26, 2000, unless EPA receives adverse written comments by November 27, 2000. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Michael Leslie at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

What Action Is EPA Taking Today?

EPA is approving a revision to the ozone maintenance plan for Walworth

County, Wisconsin. The revision will change the MVEB for VOC that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

Who Is Affected by This Action?

Primarily, this revision will affect the transportation sector represented by Southeastern Wisconsin Regional Planning Commission, the Wisconsin Department of Transportation and persons needing to travel through Walworth County. The conformity rule, provides that if a "safety margin" exists in the maintenance plan, then the safety margin can be allocated to the transportation sector via the mobile source budget.

How Did the State Support This Request?

On September 8, 2000, Wisconsin submitted to EPA a SIP revision request for the Walworth County ozone maintenance area. The Wisconsin Department of Natural Resources (WDNR) held a public hearing on this proposal on August 15, 2000. No one from the public commented on the proposed revisions.

In the submittal, Wisconsin requested to establish a new 2007 MVEB for VOC for the Walworth County, Wisconsin, ozone maintenance area. The State requested that 0.5 tons per day of VOC be allocated from the maintenance plan's safety margin. The MVEB are used for transportation conformity purposes.

What Is Transportation Conformity?

Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be consistent with the requirements in the SIP to attain and maintain the air quality standards. The Clean Air Act, in section 176(c), requires conformity of transportation plans, programs and projects to an implementation plan's purpose of attaining and maintaining the National Ambient Air Quality Standards. On November 24, 1993, EPA published a final rule establishing criteria and procedures for determining whether transportation plans, programs and projects funded or approved under Title 23 U.S.C. or the Federal Transit Act conform to the SIP.

The transportation conformity rules require an ozone maintenance area, such as Walworth County, to compare the actual projected emissions from cars, trucks and buses on the highway network, to the MVEB established by a maintenance plan. The Walworth County area has an approved ozone maintenance plan. Our approval of the maintenance plan established the MVEB for transportation conformity purposes.

What Is an Emissions Budget?

An emissions budget is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the SIP. The SIP controls emissions through regulations, for example, on fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the emissions budget. The transportation conformity rule allows changing the MVEB as long as the total level of emissions from all sources remains below the attainment level.

What Is a Safety Margin?

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example: Walworth County was monitoring attainment of the one hour ozone standard during the 1992–1994 time period. The State used 1993 as the attainment level of emissions for Walworth County. The emissions from point, area and mobile sources in 1993 equaled 18.77 tons per day of VOC and 12.88 tons per day of NO_X. The Wisconsin Department of Natural Resources (WDNR) projected emissions out to the year 2007 and projected a total of 17.16 tons per day of VOC and 11.49 tons per day of NO_X from all sources in Walworth County. The safety margin for Walworth County is the difference between these amounts, or 1.61 tons per day of VOC and 1.39 tons per day of NO_X. Tables 1 and 2 give detailed information on the estimated emissions from each source category and the safety margin calculation.

The 2007 emission projections reflect the point, area and mobile source reductions and are illustrated in Tables 1 and 2.

TABLE 1.—WALWORTH COUNTY VOC EMISSIONS BUDGET

Source category	1993	2007
Point	1.55	1.79
Area	7.63	7.37
On-Road Mobile	5.53	4.89
Non-Road Mobile	4.06	3.11
Total	18.77	17.16

Safety Margin = 1993 total emissions − 2007 total emissions = 1.61 tons/day VOC

TABLE 2.—WALWORTH COUNTY NO_X EMISSIONS BUDGET

Source category	1993	2007
Point	0.55	0.64
Area	0.73	0.66
On-Road Mobile	7.86	7.20
Non-Road Mobile	3.74	2.99
Total	12.88	11.49

Safety Margin = 1990 total emissions − 2007 total emissions = 1.39 tons/day NO_x

The emissions are projected to maintain the area's air quality consistent with the air quality health standard. Wisconsin requests that only a portion of the safety margin credit be allocated to the transportation sector. The total emission level, even with this allocation will be below the attainment level or safety level and thus is acceptable.

How Does This Action Change the Walworth County Ozone Maintenance Plan?

It raises the VOC emissions for the MVEB. The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population, and traffic is offset with reductions from cleaner cars and other emission reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

In the submittal, Wisconsin requested to allocate part of the area's safety margin to the MVEB. The Walworth County area's safety margin is the difference between the 1993 attainment inventory year and the 2007 projected emissions inventory (1.61 tons/day VOC safety margin, and 1.39 tons/day NO_X safety margin) as shown in Tables 1 and 2. The SIP revision requests the allocation of 0.5 tons/day VOC into the area's MVEB from the safety margin. The 2007 VOC MVEB budget showing the safety margin allocations that will be

used for transportation conformity purposes is outlined in Table 3.

Table 3 below illustrates that the requested portion of the safety margin can be allocated to the 2007 mobile source budget and that total emissions will still remain at or below the 1993 attainment level of total emissions for the Walworth County maintenance area. Since the area would still be at or below the 1993 attainment level for the total emissions, the conformity rule allows this allocation. The NO_X budget and safety margin will remain the same.

TABLE 3.—ALLOCATION OF SAFETY MARGIN TO THE 2007 MVEB, WALWORTH COUNTY VOC EMISSIONS

[tons/day]

Source category	2007
Point	1.79
Area	7.37
On-Road Mobile	5.39
Non-Road Mobile	3.11
Total	17.66

Remaining Safety Margin =1990 total emissions − 2007 total emissions = 1.11 tons/day VOC

Why Is the Request Approvable?

The requested allocation of the safety margin for the Walworth County area is approvable because the new MVEB for VOC maintains the total emissions for the area at or below the attainment year inventory level as required by the transportation conformity regulations. The conformity rule allows this allocation because the area would still be at or below the 1993 attainment level for the total emissions.

EPA Action

EPA is approving the requested allocation of the safety margin to the VOC MVEB for the Walworth County ozone maintenance area.

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comments by November 27, 2000. Should the Agency receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on December 26, 2000.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987) on federalism still applies. This rule 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. 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, Hydrocarbons, Ozone, Volatile Organic Compound, Transportation conformity.

Dated: October 11, 2000.

Norman Niedergang,

Acting Regional Administrator, Region 5.

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 YY—Wisconsin

2. Section 52.2585 is amended by adding paragraph (n) to read as follows.

§ 52.2585 Control strategy: Ozone.

* * * * *

(n) Approval—On September 8, 2000, Wisconsin submitted a revision to the ozone maintenance plan for the Walworth County area. The revision consists of allocating a portion of the Walworth County area's Volatile Organic Compounds (VOC) safety margin to the transportation conformity Motor Vehicle Emission Budget (MVEB). The MVEB for transportation conformity purposes for the Walworth County area are now: 5.39 tons per day of VOC emissions and 7.20 tons per day of oxides of nitrogen emissions for the year 2007. This approval only changes the VOC transportation conformity MVEB for Walworth County.

* * * * *

[FR Doc. 00–27399 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 110–1110; FRL–6889–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to a new statewide visible emissions rule, and the rescission of four, old area specific visible emission rules. The new statewide rule consolidates the requirements of the four old area specific rules. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This rule is effective on December 26, 2000 without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the

direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we, us, or our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

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

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

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

What Is the Federal Approval Process for a SIP?

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

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

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

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On June 7, 2000, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the SIP. The state requested that we approve new statewide rule 10 CSR 10–6.220, Restriction of Emission of Visible Air Contaminants, and rescind four old area-specific rules which it replaced. The four rules to be rescinded, and their area of applicability, are:

- 10 CSR 10–2.060, Restriction of Emission of Visible Air Contaminants—Kansas City Metropolitan Area
- 10 CSR 10–3.080, Restriction of Emission of Visible Air Contaminants—Outstate Missouri Area
- 10 CSR 10–4.060, Restriction of Emission of Visible Air Contaminants—Springfield-Greene County Area
- 10 CSR 10–5.090, Restriction of Emission of Visible Air Contaminants—St. Louis Metropolitan Area

The applicability and intent of the new rule do not differ from the old rules. Certain revisions were made to provide clarification and to enhance enforceability, however. For example, a definitions section was added with definitions relevant to this rule, obsolete exemptions were removed, area specific exemptions were expanded to statewide exemptions where appropriate, "Source operating time" definition was clarified, and non-COMS test methods were specified.

The benefits of consolidating the four rules into one include: Allows fewer rules for Title V compliance; clarifies statewide visible emission requirements and exemptions; requires enforcement and maintenance of one rule, rather than four; provides consistent enforcement throughout the state; avoids confusion interpreting specific rule requirements and exemptions in different areas of the state; and adds a clarification that sources regulated under the new source performance standards (NSPS) are subject to the more stringent NSPS requirements.

A technical support document (TSD) containing additional information and background material for this action has been prepared and is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, Appendix V. In addition, as explained above and in more detail in the TSD which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing SIP which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

We are approving the state's request to amend the SIP by rescinding the four SIP approved area specific rules and approving in their place an equivalent statewide visible emissions rule.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as

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

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended by:

a. Removing the entry under Chapter 2 for 10–2.060;

b. Removing the entry under Chapter 3 for 10–3.080;

c. Removing the entry under Chapter 4 for 10–4.060;

d. Removing the entry under Chapter 5 for 10–5.090; and

e. Adding in numerical order an entry under Chapter 6 for 10–6.220.

The addition reads as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.220	Restriction of Emission of Visible Air Contaminants.	11/30/99	[insert date of publication and FR cite].	
*	*	*	*	*

* * * * *

[FR Doc. 00–27144 Filed 10–25–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–119–1–7448a; FRL–6886–1]

Approval and Promulgation of Implementation Plans; Texas; Water Heaters, Small Boilers, and Process Heaters; Agreed Orders; Major Stationary Sources of Nitrogen Oxides in the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Texas State Implementation Plan (SIP). This rulemaking covers four separate actions. First, we are approving revisions to the Nitrogen Oxides (NO_X) SIP to add a rule for water heaters, small boilers, and process heaters sold and installed in Texas (the Texas Water Heater Rule). This rule will contribute to attainment of the 1-hour ozone standard in the Beaumont/Port Arthur (B/PA), Houston/Galveston (H/GA), and Dallas/Fort Worth (D/FW) nonattainment areas and will contribute to continued maintenance of the standard in the rest of the State of Texas. Second, we are approving revisions to the Texas NO_X SIP for certain major stationary point source categories in the B/PA ozone nonattainment area. These new limits for certain stationary point sources will contribute to attainment of the 1-hour ozone standard in the B/PA area. Third, we are approving revisions to the existing approved Texas NO_X Reasonably Available Control Technology (RACT) SIP because the changes are administrative in nature. Fourth, we are approving two Agreed Orders between the State of Texas and two companies in Northeast Texas. These Orders will contribute to attainment of the 1-hour ozone standard in the B/PA, H/GA, and D/FW nonattainment areas and will contribute to continued maintenance of the standard in the eastern half of the State of Texas.

The EPA is approving these SIP revisions to regulate emissions of NO_X as meeting the requirements of the Federal Clean Air Act (the Act).

DATES: This rule is effective on December 26, 2000, without further notice, unless EPA receives adverse comment by November 27, 2000. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. 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. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

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

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, P.E., Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691.

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SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means EPA. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is independent of the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

1. What Action Are We Taking?

The EPA previously approved the Texas NO_X rules at 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds" as the Texas NO_X RACT SIP for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas on September 1, 2000 (65 FR 53172). On April 30, 2000, the Governor of Texas submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_X SIP for certain major stationary point source categories operating in the B/PA ozone nonattainment area. Texas submitted this SIP revision to us as a part of the additional local NO_X reductions needed for the B/PA area to attain the 1-hour ozone standard. These new rules set revised emission specifications in the B/PA area for electric utility boilers, industrial, commercial or institutional boilers, and certain process heaters. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_X SIP adding controls for another source category—water heaters, small boilers, and process heaters sold and installed in Texas. Texas submitted this SIP revision to us as a part of the NO_X reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the rest of the State of Texas. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_X RACT SIP that were purely administrative changes without any substantive effects.

On April 30, 2000, the Governor of Texas submitted to us two Agreed Orders entered into between the State and two companies in the eastern half of Texas. Texas submitted this SIP revision to us as a part of the additional emission reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the eastern half of the State of Texas.

In this rulemaking we are taking four separate actions. First, under part D of the Act, we are specifically approving a

new part to the Texas NO_X SIP that goes beyond the approved Texas NO_X RACT SIP for the B/PA area. The new part is (1) the addition of new sections 117.104 concerning Gas-Fired Steam Generation, 117.106 concerning Emission Specifications for Attainment Demonstrations, 117.108 concerning System Cap, 117.116 concerning Final Control Plan Procedures for Attainment Demonstration Emission Specifications, 117.206 concerning Emission Specifications for Attainment Demonstrations, and 117.216 concerning Final Control Plan Procedures for Attainment Demonstration Emission Specifications as they relate to the B/PA ozone nonattainment area; and (2) the repeal of sections 117.109 and 117.601 as they relate to the B/PA ozone nonattainment area. We are approving this new part under part D of the Act because the State is relying upon these additional NO_X reductions to demonstrate attainment of the 1-hour ozone standard in the B/PA area. Secondly, we are approving another new part to the Texas NO_X SIP, the addition of new sections 117.460 concerning Definitions, 117.461 concerning Applicability, 117.463 concerning Exemptions, 117.465 concerning Emission Specifications, 117.467 concerning Certification Requirements, and 117.469 concerning Notification and Labeling Requirements. In this document we will refer to the new sections 117.460–117.469 as the "Texas Water Heater Rule." We are approving the "Texas Water Heater Rule" as a part of the Texas NO_X SIP under part D of the Act because the State is relying upon this rule to demonstrate attainment for the H/GA, D/FW, and B/PA areas, and we are approving the rule under sections 110 and 116 of the Act because the State is relying upon the reductions to show continued maintenance of the standard in the rest of the State of Texas and as a strengthening of the existing Texas SIP. Third, we are specifically approving the administrative revisions to sections 117.101–117.121, 117.201–117.223, 117.510, 117.520, and 117.570. We are approving these administrative, non-substantive revisions to the existing approved Texas NO_X RACT SIP because they make no substantive changes to the approved RACT rules, and they add headings to distinguish between the RACT rules for the nonattainment areas and the rules relied upon by the State for attainment demonstration purposes. Fourth, we are approving two Agreed Orders between the TNRCC and Alcoa, Inc., and the TNRCC and Eastman Chemical Company, Texas Operations. We are approving these two Orders under part D of the Act because the State is relying upon the NO_X reductions from these two Orders to demonstrate attainment of the 1-hour ozone standard in the H/GA, D/FW, and B/PA areas, and under sections 110 and 116 of the Act because the State is relying upon the Orders for continued maintenance of the standard in the eastern half of the State of Texas and as a strengthening of the existing Texas SIP. For information about these two Agreed Orders, see sections 16 and 17 of this document.

Texas has other source specific Agreed Orders/ permits that we inadvertently did not include in the conversion of the previously-codified Texas SIP to the new Incorporation by Reference format. *See* 64 FR 36586, published on July 7, 1999. In this document we are not correcting the new tables to reflect those Texas' source specific Agreed Orders/ permits we approved and codified under the previous format. We will correct our tables for those Texas' source specific Agreed Orders/ permits in a future **Federal Register** notice.

For more information on the Texas NO_X SIP revision and our evaluation of these rules, please refer to our TSD dated September 2000.

2. What Are the April 30, 2000, SIP Revision Requirements for the "Texas Water Heater Rule?"

The following two tables contain a summary of the April 30, 2000, "Texas Water Heater Rule" requirements for Water Heaters, Small Boilers, and Process Heaters sold and installed in Texas.

TABLE 1.—SIZE CLASSIFICATION FOR "TEXAS WATER HEATER RULE"

Maximum rated capacity (Btu/Hr)	Type
Capacity ≤ 75,000	0
400,000 ≤ Capacity > 75,000	1
2,000,000 ≤ Capacity > 400,000	2

TABLE II.—TYPES, DATES AND NO_X EMISSION SPECIFICATIONS FOR THE "TEXAS WATER HEATER RULE"

Type	Date	NO_x emission specification	Explanation
0	Manufactured on or after July 1, 2002	40 ng/joule of heat output or 55 ppmv at 3% oxygen dry basis.	No later than December 31, 2004.
0	Manufactured on or after January 1, 2005	10 ng/joule of heat output or 15 ppmv at 3% oxygen dry basis.	
1	Manufactured on or after July 1, 2002	40 ng/joule of heat output or 55 ppmv at 3% oxygen dry basis.	
2	Manufactured on or after July 1, 2002	30 ppmv at 3% oxygen dry basis or 0.037 lb/MMBtu/hr of heat input.	

We are approving the NO_X emission specifications of the "Texas Water Heater Rule" under part D of the Act because the State is relying upon them to demonstrate attainment in the B/PA, D/FW, and H/GA areas. We are also approving them under sections 110 and 116 because they strengthen the Texas SIP, and the State is relying upon them for continued maintenance of the standard in the rest of the State. The rules do not mandate use of a specific burner technology, and they do not require retrofitting of existing natural gas-fired water heaters, small boilers, and process heaters. For a comparison of this rule with the water heater rule of another state, please refer to our TSD dated September 2000.

3. What Source Categories Will the April 30, 2000, SIP Revision for the B/PA Area Affect?

These revisions will affect NO_X emissions from the following source categories in the B/PA ozone nonattainment area: (1) Utility boilers, steam generators, auxiliary steam boilers, and gas turbines used to generate electricity. *See* section 117.101 of this rule; and (2) commercial, institutional, or industrial boilers (non-utility boiler) and process heaters with a maximum rated capacity of 40 million British thermal units (Btu) per hour or greater.

4. What Are the Existing NO_X Emissions Specifications in the Texas NO_X RACT SIP?

The following table contains a summary of the type of affected sources, their corresponding emission limit, and relevant applicability information for these sources in the existing approved Texas NO_X RACT SIP.

TABLE III.—SUMMARY OF THE TEXAS NO_X RACT SIP'S RULES FOR SOURCES IN THE H/GA, B/PA, AND D/FW NONATTAINMENT AREAS

Source	NO_X limit	Additional information
Utility Boilers	0.26 lb/MMBtu	Natural gas or a combination of natural gas and waste oil, 24-hour rolling average.
Utility Boilers	0.20 lb/MMBtu	Natural gas or a combination of natural gas and waste oil, 30-day rolling average.
Utility Boilers	0.38 lb/MMBtu	Coal, tangentially-fired, 24-hour rolling average.
Utility Boilers	0.43 lb/MMBtu	Coal, wall-fired, 24-hour rolling average.
Utility Boilers	0.30 lb/MMBtu	Fuel oil only, 24-hour rolling average.
Utility Boilers	[a(0.26) + b(0.30)]/(a + b)	Oil and gas mixture, 24-hour rolling average, where a = percent natural gas heat input; b = percent fuel oil heat input.
Stationary Gas Turbines	42 parts per million volume dry (ppmvd) basis.	@ 15% O2, natural gas, ≥30 Mega Watt (mW) annual electric output ≥2500 hour × mW rating.
Stationary Gas Turbines	65 parts per million volume dry (ppmvd).	@ 15% O2, fuel oil.
Stationary Gas Turbines	0.20 lb/MMBtu	Natural gas, peaking units, annual electric output <2500 hour × mW rating.
Stationary Gas Turbines	0.30 lb/MMBtu	Fuel oil, peaking units, annual electric output <2500 hour × mW rating.
Non-Utility Boilers	0.10 lb/MMBtu	Natural gas, low heat release and T < 200 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.15 lb/MMBtu	Natural gas, low heat release, preheated air 200 ≤T < 400 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.20 lb/MMBtu	Natural gas, low heat release, preheated air T ≥ 400 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.20 lb/MMBtu	Natural gas, high heat release, without air or preheated air T < 250 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.24 lb/MMBtu	Natural gas, high heat release, preheated air 250 ≤ T < 500 °F, capacity ≥ 100 MMBtu/hr.
Non-Utility Boilers	0.28 lb/MMBtu	Natural gas, high heat release, preheated air T ≥ 500 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.10 lb/MMBtu	Natural gas, preheated air T ,< 200 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.13 lb/MMBtu	Natural gas, preheated air 200 ≤T < 400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.18 lb/MMBtu	Natural gas, low heat release, preheated air T ≥ 400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.10 lb/MMBtu	Natural gas, firebox T < 1400 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.125 lb/MMBtu	Natural gas, firebox 1400 ≤ T < 1800 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters	0.15 lb/MMBtu	Natural gas, firebox T ≥ 1800 °F, capacity ≥ 100 MMBtu/hr.
Process Heaters and Non-Utility Boilers	0.30 lb/MMBtu	Liquid fuel, capacity ≥ 100 MMBtu/hr
Process Heaters and Non-Utility Boilers	0.30 lb/MMBtu	Wood fuel, capacity ≥ 100 MMBtu/hr.
Stationary Gas Turbines	42 parts per million volume dry (ppmvd) basis.	@ 15% O2, rating ≥ 10 mW.
Reciprocating Internal Combustion Engines.	2.0 gram/hp-hr	Natural gas, rich burn, stationary, capacity ≥ 150 hp in H/GA, capacity ≥300 hp in B/PA.
Absorbers of Adipic Acid Production Units	2.5 lb/ton of acid produced	24-hr rolling average.
Absorbers of Nitric Acid Production Units.	2.0 lb/ton of acid produced	24-hr rolling average.
Reciprocating Internal Combustion Engines.	3.0 gram/hp-hr	Natural gas, lean burn, stationary, capacity ≥ 150 hp in H/GA, capacity ≥300 hp in B/PA or D/FW. Also includes a 3.0 gram/hp-hr limit for CO.

5. What Are the NO_X Emissions Specifications of the April 30, 2000, SIP Revision for the Particular Source Categories in the B/PA Area?

The following table contains a summary of the type of affected sources, their corresponding emission limit, and relevant applicability information for the major stationary point source categories that Texas has developed for attainment demonstration purposes, for the B/PA ozone nonattainment area.

The NO_X emission specifications that Texas has submitted to us, for attainment demonstration purposes for the B/PA area, are more stringent than the Texas NO_X SIP's RACT emission specifications in the B/PA area. We are approving these rules under part D of the Act because the State relies upon them for demonstrating attainment of the 1-hour ozone standard in the B/PA area.

TABLE IV.—SUMMARY OF THE TEXAS' NO_X EMISSION SPECIFICATIONS FOR ATTAINMENT DEMONSTRATION IN THE B/PA AREA

Source	NO_X limit	Additional Information
Utility Boilers	0.10 lb/MMBtu heat input	Daily average basis from any utility boiler. Unless provided in sections 117.108 or 117.570. Includes a 400 ppmv of CO limit at 3% oxygen dry basis (or 0.30 lb CO/MMBtu heat imput as alternate). Also 10 ppmv of ammonia limit on a one-hour averaging period.
Non-Utility Boilers	0.10 lb/MMBtu heat input	Natural gas, maximum rated heat capacity of 40 MMBtu/Hr or more. Rolling 30-day average period or one-hour average. Includes a 400 ppmv of CO limit at 3% oxygen dry basis. Also a 5 ppmv of ammonia limit on a one-hour averaging period.
Process Heaters	0.08 lb/MMBtu heat input	Natural gas, maximum rated heat capacity of 40 MMBtu/Hr or more. Includes a 400 ppmv of CO limit at 3% oxygen dry basis. Also 5 ppmv of ammonia limit on a one-hour averaging period.

We are also approving under section 110 of the Act, the emissions specifications for Carbon monoxide (CO) and ammonia on the basis that these emission specifications/parameters will strengthen the existing Texas SIP.

6. What Are Nitrogen Oxides?

Nitrogen oxides belong to the group of criteria air pollutants. The NO_X result from burning fuels, including gasoline and coal. Nitrogen oxides react with volatile organic compounds (VOC) to form ozone or smog, and are also major components of acid rain.

7. What Is a Nonattainment Area?

A nonattainment area is a geographic area in which the level of a criteria air pollutant is higher than the level allowed by Federal standards. A single geographic area may have acceptable levels of one criteria air pollutant but unacceptable levels of one or more other criteria air pollutants; thus, a geographic area can be attainment for one criteria pollutant and nonattainment for another criteria pollutant at the same time.

8. What Are the Clean Air Act's Requirements for Controlling NO_X Emissions?

Section 182(b)(2) requires States, with areas classified as moderate ozone nonattainment, to implement RACT with respect to all major sources of VOCs. Section 182(f) states that, "the plan provisions required under this subpart for major stationary sources of VOCs shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen." This NO_X RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications.

On November 25, 1992 (57 FR 55620), we published a document of proposed rulemaking entitled "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement). The NO_X Supplement describes and provides preliminary guidance on the requirements of section 182(f) of the Act. You should refer to the NO_X supplement for further information on the NO_X requirements. The EPA's mandatory Economic Incentive Program (EIP) rules for criteria pollutants appear in 40 CFR part 51, Subpart U (59 FR 16710). The EPA's discretionary EIP guidelines concerning emission trading appear in the 1994 EIP guidance document (59 FR 16690). In addition, other EPA guidance memoranda, such as those included in the "NO_X Policy Document for the Clean Air Act of 1990," (EPA–452/R96–005, March 1996), could provide you with more information about NO_X requirements.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions not covered by either a pre- or post-enactment Control Techniques Guideline (CTG) document. There were no NO_X CTGs issued before enactment and we have not issued a CTG document for any NO_X sources since enactment of the Act. However, we published Alternative Control Technique (ACT) documents for several industrial categories. States can use the information contained in the ACTs to develop their NO_X RACT rules. Furthermore, NO_X emissions beyond RACT may be needed in a nonattainment area in order for that area to demonstrate attainment. Section 182(c)(2)(A) and section 172(c) require that the SIP include control measures, means, or techniques, as may be necessary or appropriate, to provide for attainment of the standard. Section 181(a)(1) requires that each area attain the ozone standard as expeditiously as practicable.

9. What Are Definitions of Major Sources for NO_X?

Section 302 of the Act generally defines "major stationary source" as a facility or source of air pollution which emits, when uncontrolled, 100 tpy or more of air pollution. This general definition applies unless another specific provision of the Act explicitly defines major source differently. Therefore, for NO_X, a major source is one which emits, when uncontrolled, 100 tpy or more of NO_X in marginal and moderate areas. According to section 182(c) of the Act, a major source in a serious nonattainment area is a source that emits, when uncontrolled, 50 tpy or more of NO_X.

According to section 182(d) of the Act, a major source in a severe nonattainment area is a source that emits, when uncontrolled, 25 tpy or more of NO_X.

The H/GA area is a severe ozone nonattainment area, so the major source

size for the H/GA area is 25 tpy or more, when uncontrolled. The B/PA area is a moderate ozone nonattainment area, so the major source size for the B/PA area is 100 tpy or more, when uncontrolled. The D/FW area is a serious ozone nonattainment area, so the major source size for the D/FW area is 50 tpy or more, when uncontrolled.

10. What Is a State Implementation Plan?

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS) that EPA has established. Under section 109 of the Act, EPA established the NAAQS to protect public health. The NAAQS address six criteria pollutants. These criteria pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each state has a SIP designed to protect air quality. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

11. What Is the Federal Approval Process for a SIP?

When a state wants to incorporate its regulations into the federally enforceable SIP, the state must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process includes a public notice, a public hearing, a public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state adopts a rule, regulation, or control strategy, the state may submit the adopted provisions to us and request that we include these provisions in the federally enforceable SIP. We must then decide on an appropriate Federal action, provide public notice on this action, and seek additional public comment regarding this action. If we receive adverse comments, we must address them prior to a final action.

Under section 110 of the Act, when we approve all state regulations and supporting information, those state regulations and supporting information become a part of the federally approved SIP. You can find records of these SIP actions in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations that we approved are not reproduced in their entirety in the CFR but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

12. What Does Federal Approval of a SIP Mean to Me?

A state may enforce state regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

13. What Areas in Texas Will This Action Affect?

The rule revisions concerning major stationary sources that we are approving today affect the B/PA ozone nonattainment areas. The B/PA area includes the following counties: Hardin, Jefferson, and Orange. If you are in one of these counties, you should refer to the Texas NO_X rules to determine if and how today's action will affect you. The Texas Water Heater Rule that we are approving today affects the entire state of Texas. The administrative revisions that we are approving today should have no substantive effect upon the B/PA, H/GA, and D/FW ozone nonattainment areas. To find out about the effect of today's action approving the two Orders, see sections 14 and 15, below.

14. What Does the Agreed Order Between the TNRCC and Aloca, Inc., Require?

The former name of Alcoa, Inc., was Aluminum Company of America (the Company). Alcoa, is a producer of primary aluminum, fabricated aluminum, and alumina. The Company is near Rockdale, Milam County, Texas. The TNRCC and the Company have entered into this enforceable agreement to limit emissions of NO_X from this operation because the State is relying upon these NO_X reductions to demonstrate attainment of the 1-hour ozone standard in the B/PA, D/FW, and H/GA areas, and for continued maintenance of the standard in the eastern half of the State and as a strengthening of the existing Texas SIP.

The Agreed Order number is 2000–0032–SIP and has 21 stipulations. The TNRCC passed and approved this Agreed Order on April 19, 2000. As a result of this agreement the Company will have to reduce its NO_X emissions by a factor of 30%, calculated as a reduction of 5,838.2 tpy. The baseline for this calculated reduction is the TNRCC's 1997 Emission Inventory. The maximum allowable NO_X emissions from Alcoa under the Order is 13,622.4 tpy. Furthermore, no later than December 31, 2002, each boiler has a NO_X emissions limit of 1,168.0 pound per hour (lb/hr) and 5,115.8 tpy (stipulation number 10). We have included the supporting calculations for this Agreed Order with our TSD dated September 2000.

15. What Does the Agreed Order Between the TNRCC and Eastman Chemical Company, Texas Operations Require?

The Eastman Chemical Company, Texas Operations (the Company) owns and operates a chemical and plastics manufacturing plant at Highway 149, Kodak Boulevard, Longview, Harrison County, Texas. The TNRCC and the Company have entered into this enforceable agreement to limit emissions of NO_X and VOC from this operation because the State is relying upon these reductions to demonstrate attainment of the 1-hour ozone standard in the H/GA, D/FW, and B/PA areas, and to show continued maintenance of the standard in the eastern half of the State and as a strengthening of the existing Texas SIP.

The Agreed Order number is 2000–0033–SIP and has 29 stipulations. The TNRCC passed and approved this Agreed Order on April 19, 2000. As a result of this agreement the Company will have to reduce its NO_X emissions by 1671.5 tpy and its VOC emissions by 386 tpy. The baseline for calculating the reductions is the TNRCC's 1997 Emission Inventory. The maximum allowable NO_X and VOC emissions are 5,868 and 3,706 tpy, respectively. We have included the supporting calculations for this Agreed Order with our TSD dated September 2000.

Final Action

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on December 26, 2000, without further notice unless we receive adverse comment by November 27, 2000. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all

public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves 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 (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. The rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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). This rule will be effective December 26, 2000 unless EPA receives adverse written comments by November 27, 2000.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. 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) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Ozone, and Reporting and recordkeeping requirements.

Dated: October 3, 2000.

Myron O. Knudson,

Acting 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 under Chapter 117 by:

a. Revising that section of the table entitled "Subchapter B: Division 1—Utility Electric Generation";

b. Revising that section of the table entitled "Division 2—Commercial, Institutional and Industrial Sources";

c. Revising the entries for sections 117.510, 117.520, 117.570, and 117.601.

d. Adding entries for new sections 117.460, 117.461, 117.463, 117.465, 117.467, and 117.469.

e. Revising the heading immediately above the entry for section 117.510 to read "Subchapter E—Administrative Provisions."

f. Revising the heading immediately above the entry for section 117.601 to read "Subchapter F—Gas-Fired Steam Generation."

g. Adding a new heading immediately above the entry for section 117.460 to read "Subchapter D—Water Heaters, Small Boilers, and Process Heaters."

h. Adding a paragraph (d).

The revisions and additions, read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State submittal/ approval date	EPA approval date	Explanation
*	*	*	*	*
Chapter 117 (Reg 7)—Control of Air Pollution From Nitrogen Compounds				
Subchapter A				
*	*	*	*	*
Subchapter B				
Division 1—Utility Electric Generation				
Section 117.101	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.103	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.104	Gas-fired Steam Generation	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.105	Emission Specifications	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(h) and (j) added for B/PA area.
Section 117.106	Emission Specifications for Attainment Demonstrations.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.107	Alternative System-Wide Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.108	System Cap	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan, EPA must approve decisions under (j).
Section 117.109	Initial Control Plan Procedures	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	Repealed for B/PA area only.
Section 117.111	Initial Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.113	Continuous Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.115	Final Control Plan Procedures	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.116	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.117	Revision of Final Control Plan	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.119	Notification, Recordkeeping, and Reporting Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.121	Alternative Case Specific Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Division 2—Commercial, Institutional, and Industrial Sources				
Section 117.201	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.203	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.205	Emission Specifications for Reasonably Available Control Technology.	04/19/2000	*[Insert publication date and Federal Register cite].*	(d)(2) and (e) for B/PA or D/FW.
Section 117.206	Emission Specifications for Attainment Demonstrations.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan only.
Section 117.207	Alternative Plant-Wide Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.208	Operating Requirements	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.209	Initial Control Plan Procedures	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.211	Initial Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.213	Continuous Demonstration of Compliance.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.215	Final Control Plan Procedures for Reasonably Available Control Technology.	04/19/2000	*[Insert publication date and Federal Register cite].*	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State submittal/ approval date	EPA approval date	Explanation
Section 117.216	Final Control Plan Procedures for Attainment Demonstration Emission Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, B/PA attainment plan.
Section 117.217	Revision of Final Control Plan	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.219	Notification, Recordkeeping, and Reporting Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.221	Alternative Case Specific Specifications.	04/19/2000	*[Insert publication date and Federal Register cite].*	
Section 117.223	Source Cap	10/27/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(b)(B) requires EPA's approval.
*	*	*	*	*	*	*
	Subchapter D			
	Water Heaters, Small Boilers, and Process Heaters			
Section 117.460	Definitions	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.461	Applicability	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.463	Exemptions	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.465	Emission Specifications	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.467	Certification Requirements	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
Section 117.469	Notification and Labeling Requirements.	04/19/2000	*[Insert publication date and Federal Register cite].*	New, State-wide.
*	*	*	*	*	*	*
	Subchapter E			
	Administrative Provisions			
Section 117.510	Compliance Schedule for Utility Elecric Generation.	04/19/2000	*[Insert publication date and Federal Register cite].*	(a), and (a)(2) for B/PA area only.
Section 117.520	Compliance Schedule for Industrial, Commercial and Institutional Combustion Sources in Ozone Nonattainment Areas.	04/19/2000	*[Insert publication date and Federal Register cite].*	(a), (a)(2), and (a)(3) for B/PA area only.
*	*	*	*	*	*	*
Section 117.570	Trading	10/27/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	(1)(A)(ii) for B/PA area only.
	Subchapter F			
	Gas-Fired Steam Generation			
Section 117.601	Gas-Fired Steam Generation	02/24/1999 04/19/2000	*[Insert publication date and Federal Register cite].*	Repealed for B/PA area only.
*	*	*	*	*	*	*

(d) EPA-approved State Source Specific Requirements.

EPA APPROVED TEXAS SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State approval/ submittal date	EPA approval date	Explanation
Alcoa Inc., Rockdale, Milam County, Texas.	Agreed Order No. 2000–0032–SIP.	04/19/2000	*[Insert publication date and Federal Register cite].*	H/GA, D/FW, and B/PA, Texas 1-hour ozone standard attainment demonstrations.

EPA APPROVED TEXAS SOURCE-SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State approval/ submittal date	EPA approval date	Explanation
Eastman Chemical Company, Texas Operations, Longview, Harrison County, Texas.	Agreed Order No. 2000–0033–SIP.	04/19/2000	*[Insert publication date and Federal Register cite].*	H/GA, D/FW, and B/PA, Texas 1-hour ozone standard attainment demonstrations.

[FR Doc. 00–27029 Filed 10–25–00; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 108–1108; FRL–6890–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to a revision to a St. Louis city ordinance and to a revision and revocation of three St. Louis city issued incinerator permits. The effect of this action is to ensure Federal enforceability of the local agency's air program rules and to maintain consistency between the local agency adopted rules and the approved SIP.

DATES: This rule is effective on December 26, 2000, without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we, us, or our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

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

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

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

What Is the Federal Approval Process for a SIP?

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

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

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

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On May 22, 2000, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the SIP to approve revisions to a St. Louis city ordinance and incinerator permits.

On April 22, 1998, (63 FR 19823) EPA approved a revision to the Missouri SIP which incorporated two sections of St. Louis City air pollution control Ordinance No. 59270. These two sections pertained to open burning restrictions and related definitions. In the same action, EPA also approved three medical waste incinerator permits issued by the city of St. Louis.

In 1999, the city updated the provisions of this Ordinance by adopting replacement Ordinance No. 64749. A few of the revisions in the new Ordinance pertained to the SIP-approved sections mentioned above. SIP-approved revisions in the new Ordinance consist of renumbering of the definitions and the addition of a

definition for vegetation. In order to maintain consistency between the local agency approved SIP rules and the Federally approved SIP, the city requested that the state submit the relevant provisions of the new Ordinance as a SIP revision and that EPA rescind approval of the old Ordinance. At the same time, the city determined that two of the SIP approved incinerator permits were no longer necessary since the sources were closed. The city subsequently revoked the permits for these sources and as part of this submittal has requested that these permits be rescinded from the SIP. Finally, the third permit was modified to update a reference to the Ordinance number. This modification was accomplished by way of a letter from the St. Louis Division of Air Pollution Control to Tim Hill, Energy Center Director, St. Louis University Hospital, St. Louis, Missouri, dated January 31, 2000.

With respect to the air pollution control revisions in Ordinance No. 64749, EPA is approving the following: Section 7—Definitions; Open burning, Refuse (omitting the phrase "other than liquids or gases"), Salvage operation, Trade waste, Vegetation, and Section 17—Open Burning Restrictions.

With respect to the incinerator permits, EPA is approving the state's request to remove from the SIP permits numbered 96–10–083 and 96–10–084 issued to Washington University School of Medicine, and is approving the revision contained in the city's letter of January 31, 2000, for the St. Louis University Hospital incinerator.

A technical support document (TSD) containing additional information and background material for this action has been prepared and is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing SIP which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

We are approving the state's request to amend the SIP by rescinding the SIP approved provisions of St. Louis City Ordinance No. 59270 and concurrently approving in Ordinance No. 64794, certain definitions in section 7—Definitions, and section 17—Open Burning. We are also approving a revision to the incinerator permit for St. Louis University Hospital, and deleting two incinerator permits for Washington University School of Medicine.

Administrative Requirements

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

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. 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 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

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 AA—Missouri

2. Section 52.1320(c) is amended by removing the heading and entries for "St. Louis City Ordinance 59270" and adding in its place the new heading and entries shown below.

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
*	*	*	*	*
St. Louis City Ordinance 64749				
Section 7	Definitions	4/27/00	10/26/00 and FR cite.	The phrase "other than liquids or gases" in the Refuse definition has not been approved.
Section 17	Open Burning	4/27/00	10/26/00 and FR cite.	

3. Section 52.1230(d) is amended under the heading "St. Louis City Incinerator Permits" by deleting the two entries for Washington University School of Medicine and adding an entry at the end of the table for St. Louis University.

(d) * * *

EPA—APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
St. Louis University	Permit Matter No. 00–01–004	1/31/00	10/26/00 and FR cite.	

* * * * *

[FR Doc. 00–27146 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 116–1116a; FRL–6890–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to the state's Submission of Emission Data, Emission Fees, and Process Information rule. EPA is also approving this rule as it pertains to Missouri's part 70 operating permits program. EPA is also approving the state's request to remove from the SIP the General Organization rule. The effect of this action is to ensure Federal enforceability of the state's air program rule revisions and to maintain consistency between the state-adopted rules and the approved SIP and part 70 programs.

DATES: This direct final rule is effective on December 26, 2000, without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

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

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we, us, or our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

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

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

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

What Is the Federal Approval Process for a SIP?

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

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

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

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the Part 70 Operating Permits Program?

The Clean Air Act (CAA) Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federal enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is Being Addressed in This Document?

On May 22, 2000, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the SIP to approve revisions to rule 10 CSR 10–6.110, Submission of Emission Data, Emission Fees, and Process Information. MDNR also requested that we approve this rule revision as it pertains to the state's approved part 70 operating permits program.

On August 26, 1999, the Missouri Air Conservation Commission (MACC) adopted revisions to this rule, which became effective on December 30, 1999. These revisions corrected a typographical error, updated calendar year references, made other clarifying revisions, and added a section which clarified the state's ability to collect past fees. The revisions do not change the stringency of the rule.

In a separate request, also dated May 22, 2000, MDNR requested that we remove from the SIP rule 10 CSR 10–1.010, General Organization. In 1998, MDNR revised this rule to reflect organizational and operational changes that had occurred since the promulgation of the rule in 1987. The rule revision was adopted by the MACC on August 27, 1998, and became effective on December 30, 1998. In its submittal letter to us MDNR requested that this rule be removed from the SIP. This rule only governs internal MDNR authorities and responsibilities and does not relate to attainment of the National Ambient Air Quality Standards. We believe it is appropriate to remove this rule from the SIP and thus are approving the state's request.

A more detailed discussion of the specific rule revisions and the state's actions is contained in the technical support document prepared for this action, which is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittals has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR Part 51, Appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

We are approving the state's request to amend the SIP by approving revisions to rule 10 CSR 10–6.110 and by removing rule 10 CSR 10–1.010 from the SIP. We are also approving rule 10 CSR 10–6.110 as it pertains to the Missouri part 70 operating permits program.

Administrative Requirements

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

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 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. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended by:

a. Removing the entry for Chapter 1 including the entry 10–1.010.

b. Revising the entry under Chapter 6 for 10–6.110, to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.110	Submission of Emission Data, Emission Fees and Process Information.	12/30/99	10/26/00 and FR cite.	Section (5), Emission Fees, has not been approved as part of the SIP.
*	*	*	*	*

PART 70—[AMENDED]

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

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

2. Appendix A to Part 70 is amended by adding paragraph (g) to the entry for Missouri to read as follows:

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

* * * * *

Missouri

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(g) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.110, Submission of Emission Data, Emission Fees, and Process Information on May 22, 2000, approval effective December 26, 2000.

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[FR Doc. 00–27148 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6892–4]

RIN 2060–AH47

National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received adverse comment, we are withdrawing the direct final rule published on August 29, 2000 (65 FR 52319) to indefinitely stay the compliance date for the process contact cooling tower (PCCT) provisions for existing affected sources producing poly(ethylene terephthalate) (PET) using the continuous terephthalic acid (TPA) high viscosity multiple end finisher process. We stated in that direct final rule that if we received adverse comment by September 28, 2000, we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule. We will address that comment in a subsequent final action based on the parallel proposal also published on August 29, 2000 (65 FR 52392). As stated in the parallel proposal, we will not institute a second comment period on this action.

DATES: As of October 26, 2000, EPA withdraws the direct final rule published at 65 FR 52319 on August 29, 2000.

ADDRESSES: Docket number A–92–45, containing information relevant to the direct final rule being withdrawn, is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW, Washington, DC 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, Organic Chemicals Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5608, electronic mail address rosensteel.bob@epa.gov.

SUPPLEMENTARY INFORMATION: On September 12, 1996, we promulgated National Emission Standards for Hazardous Air Pollutant (NESHAP) for Group IV Polymers and Resins as subpart JJJ in 40 CFR part 63. The NESHAP established a new subcategory for PET manufacture specified as the continuous TPA high viscosity multiple end finisher subcategory. The NESHAP also established standards for PCCT, contained in 40 CFR 63.1329, for existing affected sources in the new subcategory.

A petition was submitted to us requesting reconsideration of the technical basis for establishment of the continuous TPA high viscosity multiple end finisher subcategory (Docket: A–92–45). The petition presented new information related to the production processes for the manufacture of PET that the petitioner claims calls into question the need and justification for a separate subcategory for the continuous TPA high viscosity multiple end finisher process. The information presented in the petition led us to accept the petitioner's request to reconsider the need for the continuous TPA high viscosity multiple end finisher subcategory.

On August 29, 2000, the EPA published a direct final rule (65 FR 52319) and a parallel proposal (65 FR 52392) to indefinitely stay the compliance date for the PCCT provisions for existing affected sources producing PET using the continuous TPA high viscosity multiple end finisher process. The stay was issued because EPA was in the process of responding to a request to reconsider relevant portions of the NESHAP for Group IV Polymers and Resins that might result in changes to the emission limitation which applies to PCCT in this subcategory. It was unlikely that the reconsideration process would be complete before actions were necessary to comply with the current PCCT standard. Therefore, we issued an indefinite stay of the compliance date.

The EPA stated in the direct final rule that if adverse comments were received by September 28, 2000, the EPA would publish a notice to withdraw the direct final rule before its effective date of October 30, 2000. The EPA received an adverse comment and, therefore, is withdrawing the direct final rule.

The EPA will address this comment in the subsequent final action on the parallel proposal.

Dated: October 19, 2000.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 00–27583 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6889–7]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revision consists of the Corrective Action provisions contained in HSWA Clusters I, II, and RCRA III. EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Tennessee's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this

Federal Register will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on December 26, 2000 unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar at the address listed below for contact. You can view and copy Tennessee's application from 8:00 a.m. to 4:30 p.m. at the following addresses:

Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; and

EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

The effect of this decision is that a facility in Tennessee subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Tennessee has enforcement responsibilities under its state hazardous waste program for violations of such programs, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

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

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

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

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

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

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Tennessee Previously Been Authorized for?

Tennessee initially received Final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 15, 1999, effective November 15, 1999 (64 FR 49998), January 30, 1998, effective March 31, 1998 (63 FR 45870), on May 23, 1996, effective July 22, 1996 (61 FR 25796), on August 24, 1995, effective October 23, 1995 (60 FR 43979), on May 8, 1995, effective July 7, 1995 (60 FR 22524), on June 1, 1992, effective July 31, 1992 (57 FR 23063), and on June 12, 1987, effective August 11, 1987 (52 FR 22443).

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

As a result of this action to grant final authorization to Tennessee for the February 16, 1993, Corrective Action Management Unit (CAMU) rule, the State will be eligible for interim authorization-by-rule for the proposed amendments to the CAMU rule, which also proposed the interim authorization-by-rule process (see August 22, 2000, 65 FR 51080, 51115). Tennessee will also become eligible for conditional authorization if that alternative is chosen by EPA in the final CAMU amendments rule. On April 20, 1999, Tennessee submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revision satisfies all of the requirements

necessary to qualify for Final authorization. Therefore, we grant Tennessee Final authorization for the following program changes:

Description of Federal requirement	Federal Register date and page	Analogous State authority [1]
17L—Corrective Action	07/15/85, 50 FR 28702	Tennessee Code Annotated (TCA), 68–21104(5), 68–212–107(a), (d)(3–4), 68–212–108(c)(1), (d), (k) and (l), and 68–212–111; Tennessee Revised Code (TRC) 1200–1–11–.06(6)(a)1–2, .06(6)(l)1–2, .07(1)(c)1(i)(IV)VI.
44A—Permit Application Requirements Regarding Corrective Action.	12/01/87, 52 FR 45788	Tennessee Code Annotated (TCA) 68–212–106(a)2, 68–212–107(b)(2–3), (d)(3–4) & (6); Tennessee Revised Code (TRC) 1200–1–11–.07(5)(c), .07(5)(e), .07(5)(e)1(i–v), .07(5)(e)2–3.
44B—Corrective Action Beyond Facility Boundary.	12/01/87, 52 FR 45788	Tennessee Code Annotated (TCA) 68–212–107(a), (b)(1–2), (d)(3–4), 68–212–108(a)(1); Tennessee Revised Code (TRC) 1200–1–11–.06(6)(k)5, .06(6)(k)5(i–ii), .06(6)(1)(3).
121—Corrective Action Management Units and Temporary Units.	02/16/93, 58 FR 8658	Tennessee Code Annotated (TCA) 68–212–104(5), 68–212–107(a), (d)(3), 68–212–108(a)(1) & (e), 68–212–111; Tennessee Revised Code (TRC) 1200–1–11–.01(2)(a), .06(1)(c), .06(6)(1)2, .06(22)(c)1, .06(22)(c)1(i–ii), .06(22)(c)2(i), .06(22)(c)2(i)(I–II), .06(22)(c)2(ii), .06(22)(c)3, .06(22)(c)3(i–vii), .06(22)(c)4–5, .06(22)(c)5(i–iii), .06(22)(c)5(iii)(I–II), .06(22)(c)5(iv), .06(22)(c)5(iv)(I), .06(22)(c)5(iv)(I)I–II, .06(22)(c)5(iv)(II), .06(22)(c)5(iv)(II)I–III, .06(22)(c)5(iv)(III), .06(22)(c)5(iv)(III)I–VI, .06(22)(c)5(iv)(IV), .06(22)(c)6–8, .06(22)(d)1–2, .06(22)(d)2(i–ii), .06(22)(d)3, .06(22)(d)3(i–vii), .06(22)(d)4–5, .06(22)(d)5(i–ii), .06(22)(d)6, .06(22)(d)6(i–ii), .06(22)(d)7, .05(1)(b)1, .10(1)(b)6, .01(2)(a), .07(10) Appendix I.

[1] The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective January 4, 1988 and November 26, 1989.

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not yet authorized.

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

The State of Tennessee's Hazardous Waste Program is not being authorized to operate in Indian Country.

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart RR for this authorization of Tennessee's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61

FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective December 26, 2000.

List of Subjects in 40 CFR Part 271

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

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

Dated: August 29, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–27140 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6892–8]

Vermont: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule; technical correction.

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

DATES: This Final authorization will become effective on December 26, 2000, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take immediate effect.

ADDRESSES: Send written comments to Geri Mannion, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Phone number: (617) 918–1648. We must receive your comments by November 27, 2000. You can view and copy materials submitted by Vermont during normal business hours at the following locations: EPA New England Library, One Congress Street, Suite 1100 (LIB), Boston, MA 02114–2023; Phone number: (617) 918–1990; Business hours: 9 AM to 4 PM; or the Agency of Natural Resources, 103 South Main Street—West Office Building, Waterbury, VT 05671–0404; Phone number; (802) 241–3888; Business hours: 7:45 AM to 4:30 PM.

FOR FURTHER INFORMATION CONTACT: Geri Mannion, EPA New England, One Congress Street, suite 1100 (CHW), Boston, MA 02114–2023; Phone number: (617) 918–1648.

SUPPLEMENTARY INFORMATION:

Technical Corrections

In addition to authorizing the changes to Vermont's hazardous waste program, EPA is making a technical correction to a provision referenced in its immediate final rule published in the **Federal Register** on May 3, 1993 (58 FR 26242) and effective August 6, 1993 (58 FR 31911) which authorized the State for other earlier revisions to its hazardous waste program.

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

issuing permits, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in Vermont subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Vermont has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its full authority under RCRA sections 3007, 3008, 3013, and 7003.

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

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

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

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

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

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Vermont Previously Been Authorized for?

Vermont initially received Final authorization on January 7, 1985, effective January 21, 1985 (50 FR 775) to implement the RCRA hazardous waste management program. The Region published an immediate final rule for certain revisions to Vermont's program on May 3, 1993 (58 FR 26242) and reopened the comment period for these revisions on June 7, 1993 (58 FR 31911). The authorization became effective August 6, 1993 (58 FR 31911). The Region granted authorization for further revisions to Vermont's program on September 24, 1999 (64 FR 51702), effective November 23, 1999. On October 18, 1999 (64 FR 56174) the Region published a correction to the immediate final rule published on September 24, 1999, with the effective date of November 23, 1999.

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

On August 11, 2000, in accordance with 40 CFR 271.2, Vermont submitted a final complete program revision application seeking authorization for its revisions adopted March 28, 2000. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Vermont's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Vermont Final authorization for the following program changes:

Description of Federal requirement	Analogous State authority [1]
Non-HSWA Requirements Prior to Non-HSWA I Cluster Checklists	
Correction for Checklist 8: Lime Stabilized Pickle Liquor Sludge; 49 FR 23284–23287; June 5, 1984.	No State analog for this revision; the State is more stringent
RCRA VIII Cluster Checklist	
(160) Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment, 62 FR 37694–37699; July 14, 1997.	7–106(a), 7–109(a).
(161) Emergency Revision of the Carbamate Land Disposal Restrictions; 62 FR 45568; August 28, 1997.	7–106(a), 7–109(a).
(162) Clarification of Standards for Hazardous Waste LDR Treatment Variances; 62 FR 64504–64509; December 5, 1997.	7–106(a), 7–109(a).
(166) Recycled Used Oil Management Standards; Technical Correction and Clarification; 63 FR 24963–24969; May 6, 1998: as amended July 14, 1998, at 63 FR 37780–37782.	7–803(a), 7–805(d), 7–806(e)(1)(A)–(D), 7–109(a), 7–811(b)(3), 7–813, 7–812(f)
(167A) Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes; 63 FR 28556–28753; May 26, 1998.	7–106(a), 7–109(a).
(167B) Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions; 63 FR 28556–28753; May 26, 1998.	7–106(a), 7–109(a).
(167C) Land Disposal Restrictions Phase IV—Corrections; 63 FR 28556–28753; May 26, 1998: as amended at 63 FR 31266, June 8, 1998.	7–106(a), 7–109(a).
(167D) Mineral Processing Secondary Materials Exclusion; 63 FR 28556–28753; May 26, 1998	No State analogs for this exclusion; the State rule is more stringent.
(167E) Bevill Exclusion Revisions and Clarifications; 63 FR 28556–28753; May 26, 1998	7–109(a), 7–202(a)(1) & (3), 7–203(e) & (k).
RCRA IX Cluster Checklists	
(170) Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment; 63 FR 46332–46334; August 31, 1998.	7–106(a), 7–109(a).
(171) Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production; 63 FR 47410–47418; September 4, 1998.	7–106(a), 7–109(a).
(172) Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags; 63 FR 48124–48127; September 9, 1998.	7–106(a), 7–109(a).
(173) Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule; 63 FR 51254–51267; September 24, 1998.	7–106(a), 7–109(a).

Description of Federal requirement	Analogous State authority [1]
(174) Post-Closure Permit Requirement and Closure Process; 63 FR 56710–56735; October 22, 1998.	7–109(a), 7–504(e)(1), 7–510(c)(1), 7–504(f), 7–505(b).
(175) HWIR-Media; 63 FR 65874–65947; November 30, 1998	7–103, 7–109(a), 7–504(e)(1), 7–510(c), 7–106; the State rule is more stringent because it is not adopting the optional rules for Remedial Actions Plans.
(176) Universal Waste Rule—Technical Amendments; 63 FR 71225–71230; December 24, 1998.	7–109(a), 7–204(f)(3), 7–911.
(177) Organic Air Emission Standards: Clarification and Technical Amendments; 64 FR 3382; January 21, 1999.	7–311(f)(5), 7–311(g)(2)(B), 7–109(a), 57–504(e)(1), 7–510(c).
(179) Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards; 64 FR 25408–25417; May 11, 1999.	7–103, 7–602, 7–204(a)(3), 7–307(c)(4), 7–106(a), 7–109(a).
(180) Test Procedures for the Analysis of Oil and Grease and Non-Polar Material; 64 FR 26315–26327; May 14, 1999.	7–106(a), 7–109(d).
64 FR 56469, October 20, 1999: Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils and Exclusion of Recycled Wood Preserving Wastewaters.	7–106(a), 7–109(a).
64 FR 52379, September 28, 1999: Project XL Site-specific Rulemaking for University Laboratories at the University of Vermont, Burlington, VT.	7–109(c).

[1] Hazardous Waste Management Regulations, effective March 28, 2000.

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

We consider the following State requirements to be more stringent than the Federal requirements and they are part of Vermont's authorized program and are federally enforceable.

- Vermont did not adopt analogs for the Mineral Processing Secondary Minerals Exclusion promulgated at 63 FR 28556—28753 (May 26, 1998).
- Vermont did not adopt the optional remedial action plan provisions for the HWIR-Media rule promulgated at 63 FR 65874—65947 (November 30, 1998).

There are no Broader-in-scope requirements in this application. Broader-in-scope requirements are not part of the authorized program and EPA does not enforce them. Although sources must comply with such requirements in accordance with state law, they are not Federal RCRA requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Vermont will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Vermont is not yet authorized.

J. What Technical Correction Is EPA Making Today?

In listing Checklist 8 on the crosswalk for the rule promulgated at 58 FR 26243 (May 3, 1993) relating to Lime Stabilized Pickle Liquor Sludge, EPA inadvertently asserted that Vermont was seeking authorization for 40 CFR 261.3(c)(2). This rule exempts waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332) from the definition of hazardous waste unless it exhibits one or more hazardous waste characteristics. Today we are correcting the error in the May 3, 1993 **Federal Register** document and noting that Vermont's regulation is more stringent because it did not adopt a state analog for the exclusion at Section 261.3(c)(2).

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. EPA is authorizing but not codifying Vermont's updated program at this time. We reserve the amendment of 40 CFR part 272, Subpart UU for this State program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB.

This action authorizes state requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule is not subject to Executive Order 13084 relating to the affects on communities of tribal governments because there are no Federally recognized Indian tribes in Vermont. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary

consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12898 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects in 40 CFR Part 271

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

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

Dated: October 18, 2000.

Mindy S. Lubber,

Regional Administrator, EPA New England.

[FR Doc. 00–27576 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–M

Proposed Rules

Federal Register
Vol. 65, No. 208
Thursday, October 26, 2000

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

RIN 3206–AI08

Appointment, Pay, and Removal of Administrative Law Judges

AGENCY: Office of Personnel Management.

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: The Office of Personnel Management is withdrawing its proposal to revise the regulations on the appointment, pay, and removal of administrative law judges (published February 23, 1998, 63 FR 8874). The proposal contained several major revisions concerning the administrative law judge program. Because we plan to make additional changes to these regulations, we will publish a revised proposal and invite a new public comment.

FOR FURTHER INFORMATION CONTACT: Juanita Love on (202) 606–0810.

Office of Personnel Management
Janice R. Lachance,
Director.

[FR Doc. 00–27468 Filed 10–25–00; 8:45 am]
BILLING CODE 6325–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 706

Credit Practices

AGENCY: National Credit Union Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Credit Union Administration (NCUA) is publishing for comment proposed regulations implementing provisions of the Fair Credit Reporting Act (FCRA) that permit federal credit unions (FCUs) to communicate information to their affiliates (affiliate information sharing) without incurring the obligations of consumer reporting agencies. The proposed regulations explain how to comply with the affiliate information sharing provisions, addressing such matters as the content and delivery of the notice to consumers. The proposed regulations also implement certain related provisions. NCUA participated as part of an interagency group composed of representatives from the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision (collectively, the Agencies). NCUA's proposed rule is therefore comparable to the proposed rules filed jointly by the Agencies, but takes into account the unique circumstances of federal credit unions and their members. NCUA has attempted to conform these proposed regulations to the final regulations implementing the privacy provisions of the Gramm-Leach-Bliley Act.

DATES: Written comments must be received by the NCUA on or before December 26, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You may also fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

The FCRA

The FCRA, enacted in 1970, sets standards for the collection, communication, and use of information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. 15 U.S.C. 1681–1681u. In 1996, the Consumer Credit Reporting Reform Act amended the FCRA extensively (1996 Amendments). Pub. L. 104–208, 110 Stat. 3009.

For many years, to avoid the obligations of consumer reporting agencies imposed by the FCRA, many financial institutions avoided making any communications to affiliates of consumer information that could constitute consumer reports.[1] The 1996 Amendments, however, excluded specified types of information sharing with affiliates from the definition of "consumer report" assuring financial institutions that making these communications would not expose them to the obligations of consumer reporting agencies. In particular, the 1996 Amendments excluded from the definition of "consumer report" the sharing of "other information" among affiliates, so long as the consumer, having been given notice and an opportunity to opt out, did not opt out. "Other information" refers to information that is covered by the FCRA and that is not a report containing information solely as to transactions or experiences between the consumer and the person making the report.

The 1996 Amendments prohibited the NCUA and the Agencies from issuing implementing regulations. 15 U.S.C. 1681s(a)(4) (repealed). The Gramm-Leach-Bliley Act (GLBA) repealed this prohibition and directed the Board to prescribe regulations as necessary to carry out the purposes of FCRA with respect to FCUs. Pub. L. 106–102 § 506, 15 U.S.C. 1681s(e)(2).

NCUA's proposed rule and a large portion of the preamble mirror the Agencies' joint notice of proposed rulemaking, although credit unions differ from other financial institutions in several ways. FCUs are not-for-profit cooperative financial institutions, formed to permit those in the field of membership specified in the credit union's charter to save, borrow, and obtain related financial services. Member ownership and control make credit unions unique from other financial institutions. FCU investment in affiliates is limited to credit union service organizations (CUSOs), which are organizations that primarily serve credit unions or their members and whose business is related to the daily

[1] The FCRA creates substantial obligations for "consumer reporting agencies." FCRA, section 603(f); see, *e.g.*, sections 607, 611. These obligations include furnishing consumer reports only for permissible purposes, maintaining high standards for ensuring the accuracy of information in consumer reports, resolving customer disputes, and other matters.

and routine operations of credit unions. 12 U.S.C. 1757(5)(D), 1757(7)(I).

Coordination with Privacy Regulations

The GLBA sets standards for financial institutions' disclosure of nonpublic personal information to nonaffiliated third parties (privacy provisions; Pub. L. 106–102, 15 U.S.C. 6802; *see also* 15 U.S.C. 6803.) NCUA published final regulations implementing these privacy provisions on May 18, 2000 (65 FR 31721, May 18, 2000).

The privacy regulations do not "modify, limit, or supersede the operation of the Fair Credit Reporting Act." 15 U.S.C. 6806. Thus, both the privacy regulations and the FCRA may apply to an FCU's disclosure of consumer information. Moreover, if an FCU provides an opt out notice under the FCRA, that notice must be included in certain notices mandated by the privacy regulations, including annual notices to customers. 15 U.S.C. 6803. Therefore, NCUA anticipates that FCUs will design their information-sharing policies and practices, taking into account both the privacy regulations and the regulations implementing the FCRA. To ease compliance and promote consistency, NCUA is conforming the two regulations where appropriate.

Unlike the privacy regulations, these regulations do not distinguish between members and nonmembers, or customers and consumers. The FCRA is triggered when an individual's credit information is assembled or evaluated to establish the consumer's eligibility for: credit or insurance used for consumer purposes; employment purposes; or any other purpose authorized under section 604 of the FCRA. 15 U.S.C. 1681 *et seq.* FCUs must comply with these regulations whenever it furnishes consumer credit information to third parties. FCUs are reminded that the FCRA remains in effect prior to the mandatory compliance date; to avoid becoming consumer reporting agencies, FCUs must refrain at all times from sharing opt out information with their affiliates without providing consumers the opportunity to opt out.

II. Section-by-Section Analysis

Section 706.6—What does this subpart do?

Proposed paragraph 706.6(a) briefly describes the purpose of the regulations. Proposed paragraph 706.6(b) briefly describes the scope of the regulations, including the information and institutions subject to them.

Proposed paragraph 706.6(c) provides that nothing in this subpart modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services pursuant to sections 262 and 264 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (42 U.S.C. 1320d–1320d–8). Certain FCUs that possess medical information about consumers may be covered by these regulations, the GLBA privacy regulations, and rules promulgated by the Department of Health and Human Services (HHS) under the authority of sections 262 and 264 of HIPAA once those regulations are finalized. Based on the proposed HIPAA rules, it appears likely that there will be areas of overlap between the HIPAA and the FCRA affiliate information-sharing rules. After HHS publishes its final rules, the Agencies and NCUA will consult with HHS to avoid the imposition of duplicative or inconsistent requirements.

Section 706.7—What is the significance of the examples used in this subpart?

Proposed § 706.7 clarifies that the examples used in the subpart and in the sample notice are not exclusive means of compliance; rather, they are intended to provide guidance on how to comply in specific situations. NCUA solicits comment on whether to include additional or different examples, and, more fundamentally, on whether the use of examples within the regulations is appropriate and useful. Elevating the fact patterns to safe harbors in the rule may generate certain problems over time. For example, changes in technology or practice may ultimately impact the fact patterns contained in the examples and require changes in the regulations. NCUA solicits comments on whether alternative methods exist that offer illustrative guidance of the concepts portrayed by the examples.

Section 706.8—What definitions apply to this subpart?

Discussed below are a few key definitions, including: "affiliate" (as well as the related terms "company" and "control"); "clear and conspicuous"; "opt out"; "opt out information"; and "consumer report." The proposal tracks the statutory language referring to "transaction or experience information," but does not define that term.

Affiliate

Several FCRA provisions apply to information sharing with persons "related by common ownership or affiliated by corporate control," "related by common ownership or affiliated by common corporate control," or "affiliated by common ownership or common corporate control." *E.g.,* FCRA, sections 603(d)(2), 615(b)(2), and 624(b)(2). Proposed paragraph (a) defines "affiliate" to refer to all these relationships between and among companies, and clarifies that "related or affiliated by common ownership or affiliated by corporate control or common corporate control" means controlling, controlled by, or under common control with another company. This paragraph also reflects that FCU investment in affiliates is limited to CUSOs.

Consistent with the definitions in the privacy regulations, the proposal uses a definition of "control" that applies exclusively to the control of a "company," and defines "company" to include any corporation, limited liability company, business trust, general or limited partnership, association or similar organization. *See* proposed paragraph (d) ("company") and (h) ("control"). The proposal also maintains the example of "control" used in the privacy regulations. NCUA presumes an FCU has a controlling influence over the management or policies of a CUSO if the CUSO is 67% owned by federal or state-chartered credit unions. NCUA incorporates the discussion of the definition of "control" within the privacy regulations into this preamble. *See* 65 FR 31723–24 (May 18, 2000).

Clear and Conspicuous

Proposed paragraph (b) defines "clear and conspicuous" to mean that a notice must be reasonably understandable and designed to call attention to the nature and significance of the information it contains. The proposed regulations do not mandate the use of any particular technique for making a notice clear and conspicuous; instead, they give FCUs flexibility in determining how to comply. An FCU may make its notice reasonably understandable, for example, by using short explanatory sentences or bullet lists and avoiding legal or highly technical business terminology whenever possible. An FCU may design its notice to call attention to the nature and significance of the information in the notice by, for example, using a plain-language heading and a typeface and size that are easy to read.

Proposed paragraph (b) is consistent with the "clear and conspicuous" standard in the privacy regulations. It offers a more detailed exposition of the standard (particularly with respect to what makes a notice "conspicuous") than some other regulations, such as the Board's Regulation Z. However, laws

other than FCRA—for example, the Truth in Lending Act—that require clear and conspicuous disclosures, are beyond the scope of this rulemaking. Accordingly, the standard proposed here does not affect disclosures required by those laws.

NCUA requests comment on whether FCUs have any particular concerns about compliance with FCRA's clear and conspicuous standard when FCRA opt out notices are included with the GLBA privacy provision notices.

Consumer Report

Proposed paragraph (f) parallels the definition in section 603(d) of the FCRA. Paragraph (f)(2)(ii) excludes from the definition of "consumer report" communication among affiliates of a report containing information solely as to transactions or experiences between the consumer and the person making the report.[2]

Paragraph (f)(2)(iii) excludes any communication of "opt out information" if the conditions set out in §§ 706.9 through 706.14 are satisfied. The FCRA, as explained above, uses the term "other information" to refer to information that it covers but that is not transaction or experience information. This proposal refers to "other information" using the more descriptive term "opt out information." *See* proposed paragraph (k).

Opt Out

Proposed paragraph (j) defines this term to mean a direction by a consumer that an FCU not communicate opt out information about the consumer to one or more of the FCU's affiliates.

Opt Out Information

As described above, the 1996 Amendments to FCRA excluded from the definition of "consumer report" the sharing of "other information" among affiliates, so long as the consumer, having been given notice and an opportunity to opt out, did not opt out. "Other information" refers to information that is covered by the FCRA and that is not a report containing information solely as to transactions or experiences between the consumer and the person making the report. The proposed regulation uses the term "opt out information" to describe this category of information.

Proposed paragraph (k) defines opt out information as information that (i) bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, (ii) is used or expected to be used or collected for one or more of the permissible purposes listed in FCRA (*e.g.* credit transaction, employment purposes), and (iii) is not transaction or experience information. Section 706.10(d) gives examples of categories of opt out information.

Section 706.9—How may a credit union communicate opt out information to its affiliates without the communication being a consumer report?

Proposed § 706.9 describes the conditions that an FCU must meet to ensure that its communications of opt out information to its affiliates do not constitute consumer reports, including the requirement that the FCU provide an opt out notice. Section 603(d)(2)(A)(iii) of the FCRA excludes from the definition of "consumer report" the sharing of opt out information among affiliates if:

> [I]t is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons.* * *

Proposed § 706.9 accordingly provides that opt out information may be communicated among affiliates without the communication being a consumer report if: (i) The FCU has provided an opt out notice; (ii) the FCU has given the consumer a reasonable opportunity and means, before the time that it communicates the information, to opt out; and (iii) the consumer has not opted out.

Mergers & Acquisitions

In a merger or acquisition situation, the need to provide new opt out notices to the consumers of the entity that ceases to exist will depend on whether the notices previously given to those consumers accurately reflect the policies and practices of the surviving entity. If they do, the surviving entity will not be required under the rule to provide new notices.

Section 706.10—What must be in an opt out notice?

Proposed paragraph (a) provides that an opt out notice must be clear and conspicuous, and must accurately explain: (i) The categories of opt out information about the consumer that the FCU communicates; (ii) the categories of affiliates to which the FCU communicates the information; (iii) the consumer's ability to opt out; and (iv) the means to do so. NCUA invites comment on whether FCUs should also have to disclose in their FCRA notices how long a consumer has to respond to the opt out notice before the FCU may begin disclosing information about that consumer to its affiliates, as well as the fact that a consumer can opt out at any time. These disclosures are not required in the privacy regulations. NCUA seeks comment on whether the benefits of the additional disclosures would outweigh the burdens, and, if so, whether the regulation should require the disclosures to state that an FCU will wait 30 days in every instance before sharing consumer information with affiliates (*see* proposed § 706.11, below, for additional discussion on reasonable opportunity to opt out).

Proposed paragraph (b) clarifies that an FCU's notice may describe not only the communications of opt out information that the FCU currently plans to make to its affiliates, but also the communications that it reserves the right to make in the future.

Proposed paragraph (c) explains that an FCU may provide the consumer with the option of an opt out that covers only part of the information or certain affiliates. This would enable an FCU to give consumers a menu of opt out choices if it desires to do so.

Proposed paragraph (d) illustrates how an FCU may categorize the opt out information that it communicates to affiliates. Paragraph (d)(2) gives examples of opt out information, such as information from a consumer's application, information from a consumer report, information obtained by verifying representations made by a consumer, and information provided by another person regarding that person's relationship with the consumer. The first two categories reflect the legislative history of the 1996 Amendments, which states in part that the opt out provision "will clarify that affiliates within a Holding Company structure can share any application information * * * and consumer reports, consistent with the FCRA." S. Rep. No. 185, 104th Cong., 1st Sess. 18–19 (1995). The other two categories represent information that NCUA believes does not constitute

[2] Prior to the 1996 amendments to FCRA, affiliated entities could not pool their transaction or experience information in a common database without being considered a consumer reporting agency. Instead, each affiliate could disclose its own transaction or experience information to another affiliate directly only in the same manner as an entity can disclose information to a nonaffiliated third party. While transaction or experience information has been excluded from the definition of "consumer report" since the FCRA's initial passage, the 1996 amendments facilitated the disclosure of such information among affiliates.

transaction or experience information when communicated by the FCU that has received it. Paragraph (d)(3) gives a non-exclusive list of examples of specific items of opt out information within each category, including a consumer's income, credit score or credit history, open lines of credit, employment history and medical history.

Medical data are especially sensitive for many consumers; if such data are among the opt out information that an FCU communicates to its affiliates, the FCU satisfies the requirement to categorize that information if it includes examples of medical data that it intends to share. NCUA notes that the items listed in paragraph (d)(3) as examples of information that would be included within the categories of opt out information are illustrative only. Those items would not be considered opt out information in cases where the information is obtained from a source other than those listed in paragraph (d)(2). Comment is requested as to the appropriateness of these examples of categories and items of opt out information, and whether additional or different examples should be used.

The descriptions of the categories of information set out in proposed paragraph (d)(2) differ somewhat from those in the privacy regulations. 12 CFR 716.6. NCUA solicits comment on the extent to which the categories in (d)(2) can be treated as consistent with similar categories in the privacy regulations (such as disclosures of information from consumer reporting agencies) in order to reduce compliance burden and consumer confusion.

Paragraph (e) explains how an FCU can satisfy the requirement that it categorize the affiliates to which it communicates opt out information. Paragraph (f) cross-references the sample notice in Appendix A, which presents a further illustration of the content of an opt out notice.

Section 706.11—How may a credit union provide a reasonable opportunity to opt out?

Proposed paragraph (a) sets forth that an FCU will provide a reasonable opportunity to opt out by providing a reasonable period of time for the consumer to opt out from the time the notice is delivered. Proposed paragraph (b) sets out examples of what is a reasonable period of time when notices are provided in person, by mail, or by electronic means. Comment is requested on whether there are other situations that would suggest a different reasonable period of time that NCUA should note by example. Proposed paragraph (c) explains that a consumer may opt out at any time.

Section 706.12—What are reasonable means of opting out?

Proposed paragraph (a) sets forth the general rule that an FCU provides a reasonable means of opting out if it provides a reasonably convenient method to the consumer to opt out. Examples of reasonable means of opting out and unreasonable means are set out in proposed paragraphs (b) and (c), respectively. Proposed paragraph (d) permits an FCU to require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

Section 706.13—How must a credit union deliver an opt out notice?

Proposed paragraph (a) provides that an FCU must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice. As indicated by the examples provided in proposed paragraph (b), this is a lesser standard than actual notice. For instance, if an FCU mails a printed copy of its notice to the last known mailing address of an existing consumer, the FCU has met its obligation even if the consumer has changed addresses and never receives the notice.

An FCU may give notice in writing or, if the consumer agrees, electronically. For example, the FCU may e-mail its notice to a consumer that conducts electronic transactions and has agreed to receive electronic notice. NCUA invites comment on whether and how the proposed rules governing communications between an FCU and a consumer via an electronic medium should be modified in light of the Electronic Signatures in Global and National Commerce (the E-Sign Act).[3]

Proposed paragraph (c) explains that oral notice alone does not comply with the notice requirement; however, oral notice may be provided in conjunction with appropriate written or electronic notice.

Proposed paragraph (d) explains that an FCU must provide the notice so that the consumer can retain it or obtain it at a later time, and gives examples of retention or accessibility.

[3] Congress has recently enacted the E-Sign Act, Pub. L. 106–229, which addresses the use of electronic records and signatures for interstate and foreign commerce. This legislation contains general rules governing the use of electronic records for providing required information to consumers (such as disclosures and acknowledgements required by the GLBA). The legal requirement that consumer disclosures be in writing may be satisfied by an electronic record if the consumer affirmatively consents and certain other requirements of the E-Sign Act are met.

Proposed paragraph (e) permits an FCU to provide a joint opt out notice with one or more of its affiliates that are identified in the notice, as long as the notice is accurate with respect to each entity jointly issuing the notice.

Proposed paragraph (f)(1) sets out rules that apply, notwithstanding any other provision of the regulations, when two or more consumers jointly obtain a product or service from an FCU (referred to in the proposed regulations as joint consumers), other than a loan, such as a joint checking account. For example, an FCU may provide a single opt out notice to joint accountholders. The notice must indicate whether the FCU will consider an opt out by a joint accountholder as an opt out by all of the associated accountholders, or whether each accountholder may opt out separately. The FCU may not require all accountholders to opt out before honoring an opt out direction by one of the joint accountholders. With respect to loans, paragraph (f)(2) requires that an FCU provide an opt out notice to each borrower or loan guarantor if the FCU intends to communicate opt out information about the consumer to any of the FCU's affiliates.

Section 706.14—When is revised opt out notice required?

Proposed § 706.14 addresses the situation in which an FCU has provided a consumer with one or more opt out notices but later decides to communicate opt out information to its affiliates other than described in those notices. It explains that an FCU must send a revised opt out notice that complies with § 706.9, including providing a reasonable means and opportunity to opt out, and communicating the information only if the consumer has not opted out.

Section 706.15—When must a credit union comply with an opt out?

Proposed § 706.15 explains that if an FCU provides a consumer with an opt out notice, and the consumer opts out, the FCU must comply as soon as reasonably practicable after receiving the consumer's direction. Comment is solicited on whether NCUA should establish a fixed number of days—for example, 30 days—that would be deemed a "reasonably practicable" period of time for complying with a consumer's opt out direction.

Section 706.16—How long does an opt out last?

Proposed § 706.16 provides that an opt out continues to apply to the information and affiliates described in the applicable opt out notice until

revoked by the consumer in writing, or if the consumer agrees, electronically, as long as the consumer continues to have a relationship with the FCU. If the consumer's relationship with the FCU terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with the FCU.

Section 706.17—May a credit union condition the availability or terms of credit on whether a consumer opts out?

Proposed paragraph (a) reminds FCUs that they may not "discriminate against an applicant" for credit because the applicant opts out. The source of this prohibition is the Equal Credit Opportunity Act (ECOA; 15 U.S.C. 1691 *et seq.*), which bars discrimination on a prohibited basis in any aspect of a credit transaction; one prohibited basis is exercising a right under the Consumer Credit Protection Act, which includes the FCRA.

Proposed paragraph (b) provides examples of prohibited discrimination against an applicant. Paragraph (c) notes that the terms "applicant" and "discriminate against" have the meaning ascribed to these terms in 12 CFR part 202.

Appendix A

Appendix A, which is part of these regulations, contains a sample notice, part or all of which may be used to facilitate compliance with the notice requirements. Although use of the sample notice is not required, FCUs using it properly to provide notices will be deemed to be in compliance.

NCUA solicits comment on all aspects of the proposed regulations, including but not limited to those highlighted above.

III. Regulatory Analysis

Paperwork Reduction Act

This proposed regulation contains disclosure requirements for FCUs and their affiliates. An FCU that (a) has affiliates, (b) does not wish to be considered a consumer reporting agency, and (c) wishes to share consumer information (other than transaction and experience information) with its affiliates, must prepare and provide a notice to all its consumers advising them of their opportunity to opt out of information sharing with its affiliates. 12 CFR 706.9. If an FCU wishes to share information in a way that is inconsistent with notices previously given to consumers, the FCU must provide consumers with revised notices. 12 CFR 706.14. The collection of information requirements contained in this notice of proposed rulemaking will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

In estimating burden, NCUA assumed that if an FCU provides an opt out notice under the FCRA, that notice must be included in certain notices mandated by the GLBA privacy provisions, and will not be sent out separately. The analysis assumes that FCUs will provide single, combined notices covering all of the various relationships a consumer may have with an FCU, rather than separate opt out notices based on product lines such as loans and share accounts. NCUA seeks comment as to whether FCUs would likely send separate or combined notices.

This proposed regulation contains consumer reporting requirements. In order for consumers to invoke their right to opt out, they must respond to the credit union's opt out notice. 12 CFR 706.15. NCUA requests public comment on all aspects of the collections of information contained in this proposed rule, including consumer responses to the opt out notice and consumer changes to their opt out status with a credit union. 12 CFR 706.11(c). In light of the uncertainty regarding what FCUs will do to comply with the opt out requirements and how consumers will react, NCUA estimates a nominal burden stemming from consumer responses of one hour per FCU, and will revisit this estimate in light of the comments NCUA receives.

The Board estimates that it will take an average of ten hours total for an FCU to develop and process opt-out notices that comply with these regulations. The Board also estimates that nine hundred sixty-two FCUs have investments in CUSOs. The cumulative total annual paperwork burden is estimated to be approximately nine thousand six hundred twenty hours.

NCUA will submit the collection of information requirements contained in the regulation to the OMB in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. The NCUA will use any comments received to develop its new burden estimates. Comments on the collections of information should be sent to Office of Management and Budget, Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20503; Attention: Alex T. Hunt, Desk Officer for NCUA. Please send NCUA a copy of any comments you submit to OMB.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, NCUA certifies that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities. FCUs have had to notify their consumers of the right to opt out of affiliate sharing of certain information since 1997. This rulemaking provides guidance to FCUs concerning how they may comply with the statutory requirements, but requires no new types of disclosure or opt out system. While existing forms may need to be modified, these modifications are unlikely to result in a significant economic impact on a substantial number of small entities.

In addition, some of the requirements in the proposed rule have been designed to correspond to the requirements of the privacy regulations. For example, under both regulations, FCUs, in certain circumstances, must deliver notices to consumers and to provide consumers an opportunity to opt out of certain information disclosures. This proposed rule would allow FCUs to combine into one notice the notice they must deliver under FCRA and the notice that they must deliver under the privacy regulations. Also, FCUs may combine their consumers' opt out responses into one opt out response. By combining the notices they deliver and the opt out responses they process, FCUs will not need to produce additional opt out responses under this rule. Because the proposed rule is designed to minimize FCRA's burden on FCUs, and because the FCRA requirements have been effective since 1997, NCUA believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. For these reasons; a regulatory flexibility analysis is not required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, applies only to federally-chartered credit unions and 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. NCUA has determined that the proposed rule does

not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed amendment is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 706

Credit, Credit unions, Trade practices.

By the National Credit Union Administration Board on October 19, 2000.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, it is proposed that 12 CFR chapter VII be amended as follows:

PART 706—CREDIT PRACTICES AND FAIR CREDIT REPORTING

1. The authority citation for part 706 is revised to read as follows:

Authority: 15 U.S.C. 57a(f), 1681s.

2. A heading for subpart A is added preceding § 706.1 to read as follows:

Subpart A—Credit Practices

3. Subpart B is added to part 706 to read as follows:

Subpart B—Fair Credit Reporting

Subpart B—Fair Credit Reporting

§ 706.6 What does this subpart do?

(a) *Purpose.* This subpart governs the collection, communication, and use by federal credit unions of certain information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Scope.* This subpart applies to information that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit, insurance, employment, or any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b). This subpart applies to federal credit unions.

(c) *Relation to other laws.* Nothing in this subpart modifies, limits, or supercedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–1320d–8).

§ 706.7 What is the significance of the examples used in this subpart?

The examples in this subpart and the sample notice in appendix A to subpart B are not exclusive. Compliance with an example or the use of the sample notice, to the extent applicable, constitutes compliance with this subpart.

§ 706.8 What definitions apply to this subpart?

As used in these regulations, unless the context requires otherwise—

(a) *Affiliate*—(1) *In general.* The term means any company that is related or affiliated by common ownership, or affiliated by corporate control or common corporate control, with another company.

(2) *Related or affiliated by common ownership or affiliated by corporate control or common corporate control.* This means controlling, controlled by, or under common control with, another company.

(3) *Example.* An affiliate of a federal credit union is a credit union service organization (CUSO), as provided in 12 CFR part 712, that is controlled by the federal credit union.

(b) *Clear and conspicuous*—(1) *In general.* The term means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information contained in the notice.

(2) *Examples*—(i) *Reasonably understandable.* You may make your notice reasonably understandable if you:

(A) Present the information in the notice in clear and concise sentences, paragraphs, and sections;

(B) Use short explanatory sentences or bullet lists whenever possible;

(C) Use definite, concrete, everyday words and active voice whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology whenever possible; and

(F) Avoid explanations that are imprecise and readily subject to different interpretations.

(ii) *Designed to call attention.* You design your notice to call attention to the nature and significance of the information it contains if you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read;

(C) Provide wide margins and ample line spacing;

(D) Use boldface or italics for key words; and (E) In a form that combines your notice with other information, use distinctive type sizes, styles, and graphic devices, such as shading and sidebars.

(iii) *Notice on a web page.* If you provide a notice on a web page, you design your notice to call attention to the nature and significance of the information it contains if:

(A) You place either the notice, or a link that connects directly to the notice and that is labeled appropriately to convey the importance, nature, and relevance of the notice, on a page that consumers access often, such as a page on which transactions are conducted;

(B) You use text or visual cues to encourage scrolling down the page if necessary to view the entire notice; and

(C) You ensure that other elements on the web page (such as text, graphics, links, or sound) do not detract attention from the notice.

(c) *Communciation* includes written, oral, and electronic communication; provided that the term includes electronic communication to a consumer only if the consumer agrees to receive the communication electronically.

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e) *Consumer* means an individual.

(f) *Consumer report*—(1) *In general.* The term means any written, oral, or

other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or (iii) Any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) *Exclusions.* The term does not include:

(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any communication of that information among affiliates;

(iii) Any communication among affiliates of opt out information if the conditions in §§ 706.9 through 706.14 are satisfied;

(iv) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(v) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m); or

(vi) A communication described in section 603(o) of the Fair Credit Reporting Act (15 U.S.C. 1681a(o)).

(g) *Consumer reporting agency* means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(h) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the NCUA determines.

(4) *Example.* NCUA will presume a credit union has a controlling influence over the management or policies of a CUSO, if the CUSO is 67% owned by federal or state-chartered credit unions.

(i) *Credit union* means a federal credit union.

(j) *Opt out* means a direction by a consumer that you not communicate opt out information about the consumer to one or more of your affiliates.

(k) *Opt out information* means information that:

(1) Bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(2) Is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit or another purpose listed in section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b); and

(3) Is not a report containing information solely as to transactions or experiences between the consumer and the person reporting or communicating the information.

(l) *Person* means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(m) *You* means a federal credit union.

§ 706.9 How may a credit union communicate opt out information to its affiliates without the communication being a consumer report?

In general, your communication to your affiliates of opt out information about a consumer is not a consumer report if:

(a) You have provided the consumer with an opt out notice;

(b) You have given the consumer a reasonable opportunity and means before you communicate the information to your affiliates, to opt out; and

(c) The consumer has not opted out.

§ 706.10 What must be in an opt out notice?

(a) *In general.* An opt out notice must be clear and conspicuous, and must accurately explain:

(1) The categories of opt out information about the consumer that you communicate to your affiliates;

(2) The categories of affiliates to which you communicate the information and;

(3) The consumer's ability to opt out; and

(4) A reasonable means for the consumer to opt out.

(b) *Future communications.* Your notice may describe:

(1) Categories of opt out information about the consumer that you reserve the right to communicate to your affiliates in the future but do not currently communicate; and

(2) Categories of affiliates to which you reserve the right in the future to communicate, but to which you do not currently communicate, opt out information about the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain opt out information or certain affiliates, with respect to which the consumer wishes to opt out.

(d) *Examples of categories of information that you communicate.* (1) You satisfy the requirement to categorize the opt out information that you communicate if you list the categories in paragraph (d)(2) of this section, as applicable, and a few examples to illustrate the types of information in each category. These examples may include those in paragraph (d)(3) of this section, if applicable.

(2) Categories of opt out information may include information:

(i) From a consumer's application;

(ii) From a consumer credit report;

(iii) Obtained by verifying representations made by a consumer; or

(iv) Provided by another person regarding its employment, credit, or other relationship with a consumer.

(3) Examples of information within a category listed in paragraph (d)(2) of this section include a consumer's:

(i) Income;

(ii) Credit score or credit history with others;

(iii) Open lines of credit with others;

(iv) Employment history with others;

(v) Marital status; and

(vi) Medical history.

(4) You do not satisfy the requirement if you communicate or reserve the right to communicate individually identifiable health information (as described in section 1171(6)(B) of the Social Security Act (42 U.S.C. 1320d(6)(B)) but omit illustrative examples of this information.

(e) *Examples of categories of affiliates.* (1) You satisfy the requirement to categorize the affiliates to which you communicate opt out information if you list the categories in paragraph (e)(2) of this section, as applicable, and a few

examples to illustrate the types of affiliates in each category.

(2) Categories of affiliates may include:

(i) Financial service providers; and

(ii) Non-financial companies.

(f) *Sample notice.* A sample notice is included in appendix A to this subpart.

§ 706.11 How may a credit union provide a reasonable time period to opt out?

(a) *In general.* You provide a reasonable opportunity to opt out if you provide a reasonable period of time following the delivery of the opt out notice for the consumer to opt out.

(b) *Examples of reasonable period of time:*

(1) *In person.* You hand-deliver an opt out notice to the consumer and provide at least 30 days from the date you delivered the notice.

(2) *By mail.* You mail an opt out notice to a consumer and provide at least 30 days from the date you mailed the notice.

(3) *By electronic means.* You notify the consumer electronically, and you provide at least 30 days after the date that the consumer acknowledges receipt of the electronic notice.

(c) *Continuing opportunity to opt out.* A consumer may opt out at any time.

§ 706.12 What are reasonable means of opting out?

(a) *General rule.* You provide a consumer with a reasonable means of opting out if you provide a reasonably convenient method to opt out.

(b) *Reasonably convenient methods.* Examples of reasonably convenient methods include:

(1) Designating check-off boxes in a prominent position on the relevant forms included with the opt out notice;

(2) Including a reply form together with the opt out notice;

(3) Providing an electronic means to opt out, such as a form that can be electronically mailed or a process at your web site, if the consumer agrees to the electronic delivery of information; or

(4) Providing a toll-free telephone number that consumers may call to opt out.

(c) *Methods not reasonably convenient.* Examples of methods that are not reasonably convenient:

(1) Requiring a consumer to write his or her own letter to you; or

(2) Referring in a revised notice to a check-off box that you included with a previous notice but that you do not include with the revised notice.

(d) *Requiring specific means of opting out.* You may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

§ 706.13 How must a credit union deliver an opt out notice?

(a) *In general.* You must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Examples of expectation of actual notice.* (1) You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on your electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular product or service.

(2) You may *not* reasonably expect that a consumer will receive actual notice if you:

(i) Only post a sign at your office or generally publish advertisements presenting your notice; or

(ii) Send the notice via electronic mail to a consumer who does not obtain a product or service from you electronically.

(c) *Oral description insufficient.* You may not provide an opt out notice solely by orally explaining the notice, either in person or over the telephone.

(d) *Retention or accessibility.* (1) *In general.* You must provide an opt out notice so that it can be retained or obtained at a later time by the consumer in writing or, if the consumer agrees, electronically.

(2) *Examples of retention or accessibility.* You provide the notice so that it can be retained or obtained at a later time if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer upon request of the consumer; or

(iii) Make your current notice available on a web site (or link to another web site) for the consumer who obtains a product or service electronically and who agrees to receive the notice at the web site.

(e) *Joint notice with affiliates.* You may provide a joint notice with one or more affiliates as long as the notice identifies each person providing it and is accurate with respect to each.

(f) *Joint relationships*—(1) *General rule.* Notwithstanding any other provision of this subpart, if two or more consumers jointly obtain a product or service from you (joint consumers), other than a loan, the following rules apply:

(i) You may provide a single notice to all joint consumers.

(ii) Any of the joint consumers have the opportunity to opt out.

(iii) You may treat an opt out direction by a consumer either as:

(A) Applying to all of the joint consumers; or

(B) Applying to that particular joint consumer.

(iv) You must explain in your opt out notice which of the two policies set forth in paragraph (f)(1)(iii) of this section you will follow.

(v) If you follow the policy set forth in paragraph (f)(1)(iii)(B) of this section, by treating the opt out of a joint consumer as applying to that particular joint consumer, you must also permit:

(A) A joint consumer to opt out on behalf of other joint consumers; and

(B) One or more joint consumers to notify you of their opt out directions in a single response.

(vi) You may not require *all* joint consumers to opt out before you implement *any* opt out direction.

(vii) If you receive an opt out by a particular joint consumer that does not apply to the others, you may disclose information about the others as long as no information is disclosed about the consumer who opted out.

(2) *Example.* If consumers A and B, who have different addresses, have a joint checking account with you and arrange for you to send statements to A's address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow. You may send a single opt out notice to A's address and:

(i) Treat an opt out direction by A as applying to the entire account. If you do so and A opts out, you may not require B to opt out as well before implementing A's opt out direction.

(ii) Treat A's opt out direction as applying to A only. If you do so, you must also permit;

(A) A and B to opt out for each other; and

(B) A and B to notify you of their opt out direction in a single response (such as on a single form) if they choose to give you separate opt out directions.

(iii) If A opts out only for A, and B does not opt out, you may disclose opt out information only about B, and not about A and B jointly.

(3) *Special rule for loans.* You must provide an opt out notice to each borrower and loan guarantor if you intend to communicate opt out

information about such consumer to your affiliate.

§ 706.14 When is a revised opt out notice required?

If you have provided a consumer with one or more opt notices and plan to communicate opt out information to your affiliates about the consumer, other than as described in those notices, you must provide the consumer with a revised opt out notice that complies with §§ 706.9 through 706.13.

§ 706.15 When must a credit union comply with an opt out?

If you provide a consumer with an opt out notice and the consumer opts out, you must comply with the opt out as soon as reasonably practicable after you receive it.

§ 706.16 How long does an opt out last?

An opt out remains effective until revoked by the consumer in writing or electronically, as long as the consumer continues to have a relationship with you. If the consumer's relationship with you terminates, the opt out will apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with you.

§ 706.17 May a credit union condition the availability or terms of credit on whether a consumer opts out?

(a) *General rule.* If a consumer is an applicant for credit, you must not "discriminate against" the consumer if the consumer opts out of your communication of opt out information to your affiliates.

(b) *Examples of discrimination against an applicant.* You discriminate against an applicant if you:

(1) Deny the applicant credit because the applicant opts out;

(2) Vary the terms of credit adversely to the applicant such as by providing less favorable pricing terms to an applicant who opts out; or

(3) Apply more stringent credit underwriting standards to the applicant because the applicant opts out.

(c) *Regulation B.* The terms "applicant" and "discriminate against" in § 706.17 have the same meanings ascribed to them in 12 CFR part 202.

Appendix A to Subpart B—Sample Notice

This Appendix contains a sample notice to facilitate compliance with the notice requirements of these regulations. A credit union may use applicable disclosures in this sample to provide notices required by these regulations.

Notice of Your Opportunity to Opt Out of Information Sharing With Our Affiliates

Information we can share—unless you tell us not to

What Information: Unless you tell us not to, [*Credit Union*] may share with our affiliates information about you including:

- information we obtain from your application, such as [*provide illustrative examples, such as "your income" or "your marital status"*];
- information we obtain from a consumer report, such as [*provide illustrative examples, such as "your credit score or credit history"*];
- information we obtain to verify representations made by you, such as [*provide illustrative examples, such as "your open lines of credit"*]; and
- information we obtain from a person regarding an employment, credit, or other relationship with you, such as [*provide illustrative examples, such as "your employment history"*].

Shared With Whom: Our affiliates who may receive this information are:

- financial service providers, such as [*provide illustrative examples, such as "mortgage bankers, broker-dealers, and insurance agents"*]; and
- non-financial companies, such as [*provide illustrative examples, such as "direct marketers"*].

How to tell us to not share this information with our affiliates

If you prefer that we not share this information with our affiliates, you may direct us not to share this information by doing the following [*insert one or more of the reasonable means of opting out listed below*[1]]: [*call us toll free at {insert toll free number}*]; or [*visit our web site at {insert web site address} and {provide further instructions how to use the web site option}*]; or [*e-mail us at {insert the e-mail address}*]; or [*fill out and tear off the bottom of this sheet and mail to the following address: {insert address}*]; or [*check the appropriate box on the attached form {attach form} and mail to the following address: {insert address}*].

Note: Your direction in this paragraph covers certain information about you that we might otherwise share with our affiliates. We may share other information about you with our affiliates as permitted by law.

[FR Doc. 00–27363 Filed 10–25–00; 8:45 am]

BILLING CODE 7535–01–P

[1] If the credit union is using its web site or an e-mail address as the only method by which a consumer may opt out, the consumer must agree to the electronic delivery of information.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GMBH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228-212 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 Dornier Luftfahrt GMBH (Dornier) Models 228–100, 228-101, 228–200, 228–201, 228–202, and 228–212 airplanes that have windshield spray nozzle option SCN 3109 installed. The proposed AD would require you to deactivate the windshield spray nozzle heating elements. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the windshield spray nozzle heating system from overheating, which could result in smoke in the cockpit and prompt the crew to initiate emergency actions.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before November 30, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Dornier Luftfahrt GmbH, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 302631; facsimile: (08153) 304463. This information also may be examined at the Rules Docket at the address above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 99–CE–19–AD." We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on all Dornier Models 228–100, 228-101, 228–200 and 228–201, 228–202, and 228–212 airplanes. The LBA reported an incident where the windshield spray nozzle overheated and generated smoke in the cockpit. This prompted the crew to initiate an emergency evacuation during engine start.

The airplane had windshield spray nozzle option SCN 3109 installed.

What are the consequences if the condition is not corrected? If this system overheats, smoke could enter the cockpit and prompt the crew to initiate emergency actions.

Is there service information that applies to this subject? Dornier has issued All Operators Telefax (AOT) No. AOT–228–30–022, dated September 9, 1998. This telefax specifies deactivating the windshield spray nozzle heating elements.

What action did the LBA take? The LBA classified this service information as mandatory and issued German AD Number 1999–030/2, dated April 8, 1999, in order to assure the continued airworthiness of these airplanes in the Germany.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in Germany 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 LBA 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 LBA; reviewed all available information; and determined that:

- The unsafe condition referenced in this document exists or could develop on other all Dornier Models 228–100, 228–101, 228–200 and 228–201, 228–202, and 228–212 airplanes of the same type design that have windshield spray nozzle option SCN 3109 installed; and
- AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require? This proposed AD would require you to deactivate the windshield spray nozzle heating elements.

Cost Impact

How many airplanes would the proposed AD impact? We estimate that the proposed AD affects 9 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 modification:

Labor cost	Parts cost	Total cost per airplane	Total Cost on U.S. airplane operators
1 workhour × $60 per hour = $60	Not applicable	$60 per airplane	$540

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:

Dornier Luftfahrt GMBH: Docket No. 2000–CE–AD

(a) *What airplanes are affected by this AD?* This AD affects Models 228–100, 228–101, 228–200, and 228–201, 228–202, and 228–212 airplanes, all serial numbers, that:

(1) Are certificated in any category; and

(2) Have windshield spray nozzle option SCN 3109 installed.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the windshield spray nozzle heating system from overheating, which could result in smoke in the cockpit and prompt the crew to initiate emergency actions.

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

Action	Compliance time	Procedures
(1) Deactivate the windshield spray nozzle heating elements by cutting wire ME16F20 at the splice at frame 7. Cap (MS2574–2 caps) and stow cables.	Within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	Dornier All Operators Telefax (AOT) No. AOT–228–30–022, dated September 9, 1998, references this action.
(2) Do not install, on any affected airplane, windshield spray nozzle option SCN 3109.	As of the effective date of this AD	Not Applicable.

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

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

(2) The 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 Manager, Small Airplane Directorate.

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 con I get information obout ony already-opproved olternotive methods of compliance?* Contact Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Dornier Luftfahrt GmbH, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 302631; facsimile: (08153) 304463. You may examine 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 German AD Number 1999–030/2, dated April 8, 1999.

Issued in Kansas City, Missouri, on October 20, 2000.

James E. Jackson,

Acting Manager, Small Airplane Directorate,, Aircraft Certification Service.

[FR Doc. 00–27563 Filed 10–25–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 00–74]

RIN 1515–AC79

Refund of Duties Paid on Imports of Certain Wool Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to implement the provisions of section 505 of Title V of the Trade and Development Act of 2000. Section 505 permits U.S. manufacturers of certain wool articles to claim a limited refund of duties paid in each of calendar years 2000, 2001, and 2002 on imports of select wool products. The maximum amount eligible to be refunded in each of these successive claim years is limited to an amount not to exceed one-third of the amount of duties actually paid on such wool products imported in calendar year 1999. The proposed amendments contained in this document set forth the eligibility, documentation, and procedural requirements necessary to substantiate a claim for a duty refund under the terms of the statute.

DATES: Comments must be received on or before November 16, 2000.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC. 20229.

FOR FURTHER INFORMATION CONTACT: Bruce Ingalls, Chief, Entry and Drawback Management (202) 927–1082.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 2000, President Clinton signed into law the Trade and Development Act of 2000 ("the Act"), Public Law 106–200, 114 Stat. 251. Title V of the Act concerns imports of certain wool articles and sets forth provisions intended to provide tariff relief to U.S. manufacturers of men's and boys' worsted wool suits, suit-type jackets, and trousers. Within Title V, section 505

provides for a limited refund of duties paid on imports of certain wool articles.

Section 505

Paragraph (a) of section 505 provides for a refund of duties paid on imports of certain worsted wool fabrics. Specifically, paragraph (a) provides for a limited refund of duties paid, in each of calendar years 2000, 2001 and 2002, on imports of worsted wool fabrics of the kind described in subheadings 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States (HTSUS), to manufacturers of men's or boys' suits, suit-type jackets, or trousers of such imported worsted wool fabric, who may or may not be the importer of the worsted wool fabric. The amount of duties eligible to be refunded to the manufacturer in each of calendar years 2000, 2001, and 2002 is limited to an amount not to exceed one-third of the amount of duties actually paid by the manufacturer or the importer on such worsted wool fabrics imported in calendar year 1999.

It is noted that the statute prohibits a broker or other individual acting on behalf of the manufacturer from being eligible to claim such a duty refund.

Section 505(b) provides for a refund of duties paid on imports of certain wool yarn. This provision permits a manufacturer of worsted wool fabric, who has imported wool yarn of the kind described in subheading 9902.51.13, HTSUS, to be eligible to claim a limited refund of the duties paid on entries of such wool yarn in each of calendar years 2000, 2001, and 2002. The amount of duties eligible to be refunded in each of these calendar years is limited to an amount not to exceed one-third of the amount of duties actually paid by the importing-manufacturer on such wool yarn imported in calendar year 1999.

Section 505(c) provides for a refund of duties paid on imports of certain wool fiber and wool top. Paragraph (c) permits a manufacturer of wool yarn or wool fabric, who has imported wool fiber or wool top of the kind described in subheading 9902.51.14, HTSUS, to be eligible to claim a limited refund of the duties paid on entries of such wool fiber or wool top in each of calendar years 2000, 2001, and 2002. Again, the amount of duties eligible to be refunded in each of these calendar years is limited to an amount not to exceed one-third of the amount of duties actually paid by the importing-manufacturer on such wool yarn imported in calendar year 1999.

It should be noted that while sections 505(b) and (c) require that a manufacturer also be the importer in order to be eligible to claim a wool duty refund under the terms of the statute, section 505(a) does not require a manufacturer of men's or boys' suits, suit-type jackets, or trousers of worsted wool fabric to also be the importer of the worsted wool fabric to be eligible for the refund.

Section 505(d) requires that any claimant applying for a wool duty refund must identify each entry involved and provide appropriate information by which Customs is able to substantiate a claim for a refund of duties under this statute.

HTSUS Subheadings Identified in Sections 501, 502 and 505 of the Act

Paragraphs (a), (b) and (c) to section 505 identify the HTSUS tariff provisions set forth in subchapter II of chapter 99 that provide the basis for a duty refund claim under this section. The chapter 99 provisions were promulgated in sections 501 and 502 of the Act for purposes of implementing temporary duty reductions and temporary duty suspensions for certain wool products.

Although the chapter 99 subheadings do not become effective until January 1, 2001, they are statutorily defined in sections 501 and 502 of the Act as including subheadings for eligible wool products that were in effect in the 1999 and 2000 HTSUS. As section 505 permits claims for duty refunds to be made in calendar year 2000, and the amount of duties eligible to be refunded for claim year 2000 is limited to an amount not to exceed one-third of duties actually paid on select wool products imported in calendar year 1999, it is necessary to identify the 1999 and 2000, HTSUS, wool provisions that correlate to the chapter 99 subheadings identified in section 505. To that end, it is noted that:

- Section 501(a)(1) creates new subheading 9902.51.11, HTSUS, that describes "[F]abrics, of worsted wool, with average fiber diameters greater than 18.5 micron, all the foregoing certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)";
- Section 501(b)(1) creates new subheading 9902.51.12, HTSUS, that describes "[F]abrics, of worsted wool, with average fiber diameters of 18.5 micron or less, all the foregoing certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90)";
- Section 502(a) creates new subheading 9902.51.13, HTSUS, that describes "[Y]arn, of combed wool, not put up for retail sale, containing 85 percent or more by weight of wool, formed with wool fibers having diameters of 18.5 micron or less (provided for in subheading 5107.10.00)"; and
- Section 502(b) creates new subheading 9902.51.14, HTSUS, that describes "[W]ool fiber, waste, garnetted stock, combed wool, or wool top, having average fiber diameters of 18.5 micron or less (provided for in subheadings 5101.11; 5101.19; 5101.21; 5101.29; 5101.30; 5103.10; 5103.20; 5104.00; 5105.21; or 5105.29)".

Proposed Implementation

In this document, Customs is proposing its implementation of section 505. As the wool duty refund program authorized by section 505 limits the total amount of refunds available to eligible claimants in each of calendar years 2000, 2001 and 2002, to an amount not to exceed one-third of the duties paid on eligible wool products imported in calendar year 1999, Customs needs to determine the total amount of duties paid in calendar year 1999 both on an aggregate level and per claimant.

Using ACS To Determine the Amount of Duty Refund Eligible To Be Received in Each of Calendar Years 2000, 2001 and 2002

Customs will use government data generated by the Automated Commercial System (ACS) to determine the total amount of duties paid on eligible wool products imported in calendar year 1999. To this end, separate ACS queries will be run to determine the total amount of duties paid on wool products imported in calendar year 1999 for the following HTSUS subheading categories:

- 5112.11.20 and 5112.19.90;
- 5107.10.00; and
- 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, and 5105.29.

For purposes of duty refund claims made pursuant to section 505(a), one-third of the ACS-generated amount for duties paid on 1999 imports of merchandise described in HTSUS subheadings 5112.11.20 and 5112.19.90 will establish the maximum amount that is eligible to be refunded in calendar years 2000, 2001, and 2002.

For purposes of duty refund claims made pursuant to section 505(b), one-third of the ACS-generated amount for duties paid on 1999 imports of merchandise described in HTSUS subheadings 5107.10.0 will establish the

maximum amount that is eligible to be refunded in calendar years 2000, 2001, and 2002.

For purposes of duty refund claims made pursuant to section 505(c), one-third of the ACS-generated amount for duties paid on 1999 imports of merchandise described in HTSUS subheadings 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, and 5105.29 will establish the maximum amount that is eligible to be refunded in calendar years 2000, 2001, and 2002.

It should be noted that although one-third of the ACS-generated figure for each of these categories establishes the maximum amount that is eligible to be refunded in calendar years 2000, 2001, and 2002, this entire amount may not necessarily be refunded. Only those amounts of duties that are substantiated by manufacturers, to Customs satisfaction, will be eligible for refund.

Carded Wool Fabrics Do Not Provide the Basis for a Section 505 Wool Duty Refund

Customs notes that HTSUS subheadings 5111.11.70 and 5111.19.60 are not included in the above discussion for the following reason. Section 505(a) of the Act authorizes a refund of duties paid on imports of worsted wool fabrics. Section 505(a) references two new HTSUS subheadings, 9902.51.11 and 9902.51.12, that describe worsted wool fabrics and were intended to provide the basis for a wool duty refund under the terms of the statute. Even though these chapter 99 tariff provisions were created in section 501(a)(1) of the Act and are statutorily defined as including HTSUS subheadings 5111.11.70 and 5111.19.60, these two HTSUS subheadings provide for carded wool fabrics and not worsted wool fabrics. Accordingly, Customs will not consider them purposes of the proposed wool duty refund program. Rather, Customs will only consider the correlating subheadings covering worsted wool fabrics identified above, *i.e.*, HTSUS subheadings 5112.11.20 and 5112.19.90.

Proposed Customs Regulations

Customs is proposing to amend the Customs Regulations by adding a new § 10.184 to implement the terms of section 505. Section 10.184 sets forth the proposed eligibility, documentation and procedural requirements necessary for a claimant to establish the amount of duties paid on eligible wool products in calendar year 1999, and to substantiate a claim for a duty refund in the years 2000, 2001 and 2002 under the statute.

Prospective Wool Duty Refund Claimants Must File a Letter of Intent With Customs To Substantiate the Amount of Duties Paid on Eligible Wool Products Imported in Calendar Year 1999

Customs is proposing that an eligible manufacturer that expects to seek a section 505 duty refund in calendar years 2000, 2001, and 2002, must file with Customs a letter of intent to that effect, along with documentation that substantiates, to Customs satisfaction, the amount of duties paid on eligible wool products imported in calendar year 1999.

As section 505 permits both importing-manufacturers and, in limited circumstances, manufacturers who are not importers, to claim a duty refund, the proposed requirements for filing a letter of intent, with appropriate substantiating documentation, are different for each class of claimant.

Substantiating the Amount of Duties Paid on Eligible Wool Products Imported in Calendar Year 1999 Where the Manufacturer Is the Importer

In the case of a manufacturer who is the importer of the eligible wool products imported in calendar year 1999, it is proposed that the letter of intent set forth the total amount of duties actually paid by the importing-manufacturer on such merchandise. The prospective claimant must attach to the letter of intent a list of relevant entry summary numbers that substantiates this amount. The importing-manufacturer may not list any entry summary number that did not liquidate under the HTSUS subheadings that provide a basis for a wool duty refund.

Substantiating the Amount of Duties Paid on Worsted Wool Fabric Imported in Calendar Year 1999 Where the Manufacturer Is Not the Importer, but Relevant Entry Summary Information Is Available

In the case of a manufacturer who is not the importer of worsted wool fabric imported in calendar year 1999, it is proposed that the manufacturer's letter of intent must identify the importer(s) or supplier(s) who sold such fabric to the manufacturer. It is further proposed that the non-importing manufacturer must attach to the letter of intent copies of all relevant invoices, a completed Customs Form (CF) 5106—Importer ID Input Record (for purposes of administering the duty refund), and a signed affidavit that states that the manufacturer purchased the imported worsted wool fabric from an identified importer(s), or from an identified supplier(s) who has provided the manufacturer with invoices or other substantiating documentation that establishes that the identified supplier(s) purchased such fabric from the identified importer(s). The manufacturer's signed affidavit must state that either the importer of the worsted wool fabric has agreed to provide the relevant entry summary numbers directly to the manufacturer, in which case the relevant entry summary numbers will be attached to the manufacturer's signed affidavit, or the importer has agreed to submit the relevant entry summary information directly to Customs as an attachment to the importer's signed affidavit.

Required Content of an Importer's Signed Affidavit in Support of a Non-Importing Manufacturer's Letter of Intent

If an importer chooses to assist in the substantiation of a manufacturer's letter of intent, and elects to submit the relevant entry summary numbers directly to Customs, it is proposed that the importer must submit such information as an attachment to a signed affidavit. The attached entry summary numbers must substantiate the amount of fabric sold to the identified manufacturer, as evidenced by the manufacturer's submitted invoices, and the importer must state that no entry summary number has been listed that did not liquidate under HTSUS subheadings 5112.11.20 or 5112.19.90. The importer's signed affidavit must attest to the fact that the importer sold worsted wool fabric, of a kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, and imported in calendar year 1999, either directly to the identified manufacturer or to the manufacturer through an identified third-party supplier.

Substantiating the Amount of Duties Paid on Worsted Wool Fabric Imported in Calendar Year 1999 Where the Manufacturer Is Not the Importer, and Entry Summary Information Is Not Available

Where a manufacturer is the purchaser, but not the importer, of worsted wool fabric of the kind imported in calendar year 1999 and described in HTSUS subheadings 5112.11.20 or 5112.19.90, and the importer of such fabric is unable or unwilling to provide the relevant entry summary numbers to either the manufacturer or Customs, Customs is aware that it may be difficult for the manufacturer to reconstruct the amount of duties actually paid on such imports. Accordingly, it is proposed that in such circumstances a non-importing

manufacturer may attempt to substantiate the amount of duties paid on calendar year 1999 imports of worsted wool fabric by submitting relevant calendar year 1999 invoices to Customs. Although early year 1999 invoices may describe fabric that was actually imported in calendar year 1998, and, conversely, some worsted wool fabric that was actually imported in calendar year 1999 may be described in invoices dated year 2000 and later, Customs is of the view that limiting acceptable invoices for purposes of substantiating the amount of duties paid in calendar year 1999 to those invoices that are dated calendar year 1999 represents a reasonable compromise. An invoice used for this purpose must relate to fabric that is of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90. Additionally, it is proposed that where an invoice is used to substantiate the amount of duties paid on worsted wool fabric imported in calendar year 1999, an adjustment must be made to the monetary amount reflected in the invoice as that amount includes the fabric seller's mark-up, each supplier's mark-up in a distribution chain, as well as the duties already paid upon importation of the fabric. To take this into account Customs proposes, and is seeking public comment on, the use of the following formula to deduct mark-up and calculate the duties paid on the adjusted invoice amount:

(1) Customs will deduct 10 percent (to reflect seller's imputed mark-up) from any invoice amount used to substantiate the amount of duties paid on worsted wool fabric imported in calendar year 1999;

(2) Customs will divide the resulting adjusted invoice amount by 100% plus the duty rate (the 1999 *ad valorem* duty rate of 30.6% applicable to subheadings 5112.11.20 and 5112.19.90) to back out the duty and determine the appraised value; and

(3) Customs will then multiply the appraised value times the 30.6% duty rate.

Although this formula is offered as a reasonable means of calculating the amount of duties paid on an invoice amount, there remain several variables that may substantially alter the accuracy of this formula. First, it is noted that there is no definitive way to establish that the fabric described in an invoice was, in fact, imported in calendar year 1999. Second, the 10% figure (a figure offered to Customs as reasonable by the trade) may be too low or, in the event there are several intermediary fabric sellers, there may be more than one mark-up reflected in the invoice amount. To ensure that these variables do not result in an artificially high baseline from which the calendar year 2000, 2001 and 2002 duty refunds are calculated, Customs will use ACS to determine importer-specific aggregate 1999 duty payments on HTSUS subheadings 5112.11.20 and 5112.19.90. Customs will then compare the ACS determination with the importer-specific aggregates of all claimants. If the amount claimed exceeds the ACS amount, Customs will adjust the formula used for claims based on invoices associated with that importer. For example, if several manufacturers source their imported worsted wool fabric from the same importer, the aggregate amount claimed by those manufacturers as their 1999 duty payments may not exceed the aggregate amount paid by that importer in 1999. If the aggregate amount claimed for that importer exceeds the ACS aggregate, it is proposed that the 10% deduction, described in step 1 of the duty computation formula discussed above, for all invoice amounts associated with that importer which were used to substantiate the amount of duties paid in calendar year 1999 will be increased on a *pro rata* basis to ensure that aggregate claims do not exceed the ACS-generated amount. In this event, amounts substantiated by entry summary numbers will not be reduced. Thus, if one manufacturer bases his letter of intent on entry summaries associated with an importer and two other manufacturers, whose source is the same importer, base their letters of intent on invoices, and ACS indicates 1999 duty payments are less than the total ascribed to that importer in letters of intent, the 1999 duty amounts claimed by the manufacturer whose letter of intent is based on entry summaries will not be affected. However, the duty amounts claimed by the other two manufacturers will be reduced on a *pro rata* basis.

Invoices May Only Be Used To Substantiate the Amount of Duties Paid on Worsted Wool Fabric in Calendar Year 1999, and May Not Be Used To Substantiate Duties Paid in Claim Years 2000, 2001 and 2002

Section 505(d) requires a wool duty refund claimant to properly identify and make appropriate claim to Customs for each entry used to substantiate the amount of duties paid on eligible wool products in each of calendar claim years 2000, 2001 and 2002. Accordingly, invoices may not be used to substantiate the amount of duties paid in each of these claim years, and may only be used for purposes of substantiating the amount of duties paid on worsted wool fabric imported in calendar year 1999 where the relevant entry summary information is not available.

Time To File Letter of Intent

It is proposed that a prospective wool duty refund claimant's letter of intent, including all related substantiating documentation and, where necessary, the importer's signed affidavit with attached entry summary information, must be received by Customs no later than January 31, 2001, unless this date is extended upon due notice in the **Federal Register**.

Claimant's Individual Share of the Total Amount of Duties Eligible To Be Refunded

Customs will calculate each claimant's individual share of the total amount of duties eligible to be refunded based on submitted documentation that substantiates, to Customs satisfaction, the amount of duties paid by each claimant, or importer on whom the claimant relies, on eligible wool products imported in calendar year 1999. One-third of a claimant's individual share will constitute the maximum amount that claimant may receive in each of calendar years 2000, 2001, and 2002.

Wool Duty Refund Verification Letter

It is proposed that Customs will issue a wool duty refund verification letter to each prospective claimant that timely and completely substantiates, to Customs satisfaction, the amount of duties paid on eligible wool products imported in calendar year 1999. The verification letter will set forth the prospective claimant's Customs identification number for purposes of the wool duty refund program, the ACS-generated amount of duties paid on calendar year 1999 imports of the eligible wool products per importer that provide the basis for the prospective claimant's wool duty refund claim, the maximum amount of wool duty refund that the prospective claimant is eligible to receive in each of calendar years 2000, 2001, and 2002, and, where the aggregate amount of eligible individual refunds exceeds the relevant ACS-generated amount, the *pro rata* deduction used to adjust the maximum amount of wool duty refund that the prospective claimant will be eligible to receive in each of the claim years.

Customs proposes to issue a verification letter to the manufacturer no later than 30 calendar days from the date the manufacturer's letter of intent, and all required supporting documentation, is received by Customs,

unless this date is extended upon due notice in the **Federal Register**.

Procedures for Filing a Section 505 Wool Duty Refund Claim

As section 505(d) requires claimants to identify each entry that provides the basis for a wool duty refund, it is proposed that all claims for a refund of duties paid on imports of eligible wool products in each of calendar years 2000, 2001, and 2002, must be substantiated by a list of entry summary numbers for that merchandise. No wool duty refunds will be issued to a claimant until all entry summary numbers submitted to Customs for purposes of substantiating the claim are liquidated.

Filing a Wool Duty Refund Claim Where the Manufacturer Is the Importer

To file a wool duty refund claim, it is proposed that a manufacturer who is the importer of eligible wool products in calendar years 2000, 2001, or 2002, provide Customs with a copy of the verification letter the manufacturer received from Customs and a signed affidavit that contains the following information:

(1) A statement that the affiant is a U.S. manufacturer of certain wool products in the current calendar claim year;

(2) A statement that the affiant actually paid duties on imports of eligible wool products in the current calendar claim year;

(3) A statement as to the total amount of duties paid on such merchandise in the current calendar claim year;

(4) A list of current calendar claim year entry summary numbers, set forth as an attachment to the signed affidavit, that substantiates the total amount of duties paid as set forth in paragraph (3) above, and does not exceed the affiant's individual share of duties eligible to be refunded as set forth in the affiant's verification letter;

(5) A statement that the manufacturer has not listed any entry summary in paragraph (4) above that has had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law; and

(6) A list of entry summary numbers, set forth in paragraph (4) above, that is, or may become, subject to any outstanding drawback claim, protest, or any other refund claim authorized by law.

Filing a Wool Duty Refund Claim Where the Manufacturer Is Not the Importer

Where a manufacturer of men's or boys' suits, suit-type jackets, or trousers of worsted wool fabric, of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12, is not the importer of such fabric, the manufacturer may not possess the requisite entry summary numbers necessary to substantiate a wool duty refund claim. In such situations, it is proposed that the non-importing manufacturer arrange for the importer of such fabric to supply the relevant entry summary numbers to Customs. The importer may either submit the relevant entry summary numbers directly to the non-importing manufacturer, who will attach this information to the manufacturer's signed affidavit, or the importer may submit this information directly to Customs as an attachment to the importer's signed affidavit.

If the importer provides the relevant entry summary numbers directly to the non-importing manufacturer, it is proposed that the manufacturer substantiate a claim for a wool duty refund by submitting to Customs a copy of the verification letter the manufacturer received from Customs, copies of all relevant invoices, and a signed affidavit that contains the following information:

(1) A statement that the affiant is a U.S. manufacturer, in the current calendar year, of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11, or 9902.51.12;

(2) A statement that the affiant is not the importer, in the current calendar claim year, of imported worsted wool fabric of the kind described in paragraph (1) above;

(3) A statement that the affiant purchased imported worsted wool fabric of the kind described in paragraph (1) above from an identified importer(s) or from an identified supplier(s), and copies of relevant invoices are attached;

(4) Where the affiant purchased imported worsted wool fabric of the kind described in paragraph (1) above, a statement that the affiant has substantiating documentation that establishes that such fabric was imported by the identified importer(s); and

(5) A list of relevant entry summary numbers that substantiates the amount of duties paid in the current calendar year on worsted wool fabric of the kind described in paragraph (1) above, that is identified in the manufacturer's submitted invoice(s).

If the importer provides the relevant entry summary numbers directly to Customs as an attachment to the importer's signed affidavit, it is proposed that the manufacturer substantiate a claim for a wool duty refund in the same manner as described above, except that instead of submitting the relevant entry summary numbers to Customs, the non-importing manufacturer must state in the affidavit that the identified importer has agreed to submit this information directly to Customs as an attachment to the importer's signed affidavit. Unless Customs timely receives signed affidavits containing the requisite substantiating information from both the manufacturer and, where applicable, the importer, the manufacturer's claim for a wool duty refund pursuant to section 505 will be deemed incomplete and denied by Customs.

Required Content of an Importer's Signed Affidavit in Support of a Non-Importing Manufacturer's Wool Duty Refund Claim

If an importer chooses to assist in the substantiation of a non-importing manufacturer's wool duty refund claim by submitting the relevant entry summary numbers directly to Customs as an attachment to the importer's signed affidavit, the affidavit must contain the following information:

(1) A statement that the importer actually paid duties in the current calendar claim year on worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

(2) A statement that the importer sold worsted wool fabric of the kind described in paragraph (1) above to the identified manufacturer or to an identified supplier(s);

(3) A list of relevant entry summary numbers for fabric of the kind described in paragraph (1), in an amount that substantiates that amount of fabric sold to the manufacturer, as evidenced by the manufacturer's invoices;

(4) A list of any entry summary numbers in paragraph (3) above that has had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law; and

(5) A list of entry summary numbers, set forth in paragraph (3) above, that is, or may become, subject to any outstanding drawback claim, protest, or any other refund claim authorized by law.

Timely and Complete Wool Duty Refund Claims

In order for a manufacturer's wool duty refund claim to be deemed timely and complete, Customs must receive the substantiating documentation proposed above, including, where applicable, the importer's signed affidavit with relevant

attachments, no later than 90 calendar days from the last day of the calendar year in which duties were paid for which a refund is being sought.

Section 505 Wool Duty Refund Claims and Other Claims for Refunds or Drawback

Once an entry summary has been used to provide the basis for a duty refund claim pursuant to section 505, and the entire amount of duties paid on eligible wool products is refunded to the claimant, it is proposed that Customs will deny any subsequent claim for drawback of the same duties, or any other claim for a refund of those duties. However, if an entry summary has been used to substantiate a claim for a section 505 duty refund, and an amount in duties paid on that entry has not been refunded, it is proposed that the remaining amount may be eligible for drawback or any other refund claim authorized by law. Conversely, if an entry summary has been used to substantiate a drawback claim, or any refund claim authorized by law, and an amount in duties paid on that entry has not been refunded, it is proposed that the remaining amount may be eligible for a subsequent section 505 duty refund claim.

In situations where an entry summary is eligible to substantiate a section 505 claim, as well as a claim for drawback or any other claim authorized by law, it is proposed that the claim that is received first by Customs, and deemed timely and complete, will be processed first.

Comments

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

The Regulatory Flexibility Act and Executive Order 12866

These proposed regulatory changes implement the terms of section 505 of the Trade and Development Act of 2000, which went into effect May 18, 2000. Because these proposed changes benefit the public by allowing eligible claimants to receive a refund of duties paid on imports of certain wool products, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted. the proposed amendments will not have a significant impact on a substantial number of small entities. Further, these proposed amendments do not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been reviewed under the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1515–0227. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Comments on the collection of information should be sent to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch at the address set forth above. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the information collection burden on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information.

The collection of information in this proposed rule is in § 10.184. The information requested is necessary to implement the terms of section 505 of the Trade and Development Act of 2000, whereby Customs is authorized to substantiate and process claims for refunds of duties paid in each of calendar years 2000, 2001, and 2002, on imports of certain wool products. The collection of information is required in order for a claimant to obtain the duty refund. The likely respondents are business organizations who seek a refund of duties paid on imports of eligible wool products in each of calendar years 2000, 2001, and 2002.

Estimated total annual reporting and/or recordkeeping burden: 8,600 hours.

Estimated average annual burden per respondent/recordkeeper: 290 hours.

Estimated number of respondents and/or recordkeepers: 30.

Estimated annual frequency of response: 2.

If this proposal is adopted, part 178 of the Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and control numbers assigned by OMB, will be amended accordingly

Drafting Information

The principal author of this document was Suzanne Kingsbury, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Trade agreements.

Proposed Amendment to the Regulations

For the reasons stated above, it is proposed to amend part 10 of the Customs Regulations (19 CFR part 10) as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 is revised, and a new specific authority citation for § 10.184 is added, to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Section 10.184 is also issued under Sec. 505, Pub. L. 106–200, 114 Stat. 251;

* * * * *

2. A new center heading and wool refunds § 10.184 is added to read as follows:

§ 10.184 Refund of duties on certain wool imports.

(a) *General.* Section 505 of Title V of Pub. L. 106–200 (114 Stat. 251), entitled

the Trade and Development Act of 2000, authorizes the President to refund duties paid on imports of eligible wool products. The statute permits eligible importing-manufacturers and, in certain circumstances, manufacturers who are not importers, to apply for a refund of duties paid on imports of eligible wool products in each of three succeeding years. Claimants are eligible for a refund of duties paid on imports of eligible wool products in each of calendar years 2000, 2001 and 2002, limited to an amount not to exceed one-third of the duties paid on such wool products imported in calendar year 1999. This section sets forth the legal requirements and procedures that apply for purposes of obtaining this duty refund.

(b) *Eligible wool products.* For purposes for this section, the term "eligible wool product" means an imported wool product described under a Harmonized Tariff Schedule of the United States subheading listed under paragraph (c) of this section, relevant to a manufacturer of the particular wool products specified in paragraph (c).

(c) *Refunds authorized by section 505*—(1) *Worsted wool fabric.* In each of calendar years 2000, 2001, and 2002, a manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12, is eligible to claim a refund of the duties paid on entries of such fabric that were purchased by the manufacturer. The amount of duties eligible to be refunded to the manufacturer in each of these calendar years is limited to an amount not to exceed one-third of the amount of duties paid on calendar year 1999 imports of such worsted wool fabrics that were purchased by the manufacturer. A broker or other individual acting on behalf of the manufacturer is ineligible to claim a duty refund.

(2) *Wool yarn.* A manufacturer of worsted wool fabric, who imports wool yarn of the kind described in HTSUS subheadings 5107.10.00 and 9902.51.13, is eligible to claim a limited refund of the duties paid by the manufacturer on entries of such wool yarn in each of calendar years 2000, 2001, and 2002. The amount of duties eligible to be refunded in each of these calendar years is limited to an amount not to exceed one-third of the amount of duties paid by the importing-manufacturer on such wool yarn imported in calendar year 1999.

(3) *Wool fiber and wool top.* A manufacturer of wool yarn or wool fabric, who imports wool fiber or wool top of the kind described in HTSUS subheadings 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14, is eligible to claim a limited refund of the duties paid by the manufacturer on entries of such wool fiber or wool top in each of calendar years 2000, 2001, and 2002. The amount of duties eligible to be refunded in each of these calendar years is limited to an amount not to exceed one-third of the amount of duties paid by the importing-manufacturer on such wool yarn imported in calendar year 1999.

(d) *Manufacturer's letter of intent to file a claim for a wool duty refund.* A manufacturer that expects to file a wool duty refund claim in calendar years 2000, 2001, and 2002, pursuant to the terms of paragraph (c) of this section, must first file with Customs a letter of intent to that effect. A manufacturer's letter of intent must substantiate, to Customs satisfaction, the amount of duties paid on eligible wool products imported in calendar year 1999.

(1) *Documentation required where the manufacturer is the importer.* Where a manufacturer is the importer of the eligible wool products imported in calendar year 1999, a letter of intent to file a wool duty refund claim must be signed by the manufacturer or a knowledgeable authorized officer or employee of the manufacturer and must state that, to the best of the signer's knowledge and belief, the information contained in the letter is accurate and truthful. The letter of intent must contain the following information:

(i) A statement of the total amount of duties paid by the importing-manufacturer on eligible wool products imported in calendar year 1999;

(ii) A list of relevant entry summary numbers, set forth as an attachment in either a paper or an electronic format (the latter submitted to Customs on diskette), that substantiates the amount set forth in paragraph (d)(1)(i) of this section; and

(iii) A statement that no entry summary has been listed in paragraph (d)(1)(ii) of this section that did not liquidate under the HTSUS subheadings that provide a basis for a wool duty refund.

(1) *Documentation required where the manufacturer is not the importer, but the manufacturer possesses the relevant entry summary numbers.* Where a manufacturer described in paragraph (c)(1) of this section is not the calendar year 1999 importer of worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, but possesses the relevant entry summary numbers, a letter of intent to file a wool duty refund claim must be submitted to Customs and signed by the non-importing manufacturer or a knowledgeable authorized officer or employee of the manufacturer. The letter of intent must state that, to the best of the signer's knowledge and belief, the information contained in the letter is accurate and truthful.

(i) The non-importing manufacturer's letter of intent must contain the following information:

(A) A statement as to the identity of the importer(s) or supplier(s) who sold imported worsted wool fabric of the kind described in HTSUS subheadings 5512.11.20 or 5112.19.90 to the manufacturer;

(B) Copies of all relevant invoices, set forth as an attachment, that demonstrate that the manufacturer purchased imported worsted wool fabric of the kind described in paragraph (d)(2)(i)(A) of this section from an identified importer(s) or identified supplier(s) and that establish, where applicable, that the identified supplier(s) purchased such fabric from the identified importer(s);

(B) A completed Customs Form (CF) 5106—Importer ID Input Record, set forth as an attachment; and

(D) A signed affidavit, set forth as an attachment, that contains the following information:

(*1*) A statement that the affiant is a U.S. manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

(*2*) A statement that the affiant was not the importer in calendar year 1999 of worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90;

(*3*) A statement as to the quantity of imported worsted wool fabric of the kind described in paragraph (d)(2)(i)(D)(*2*) of this section that the affiant purchased from an identified importer(s) or from an identified supplier(s), with copies of relevant invoices attached;

(*4*) If the affiant purchased fabric of the kind described in paragraph (d)(2)(i)(D)(*2*) of this section from an identified supplier, a statement that the affiant has been provided with substantiating documentation that establishes that the subject fabric was imported by the identified importer; and

(*5*) A statement by the affiant that the identified importer(s) has provided a list of relevant entry summary numbers directly to the affiant that substantiates the amount of duties paid in calendar year 1999 on the fabric identified in the submitted invoices, and such

information is set forth as an attachment; or

(*6*) A statement by the affiant that the identified importer has agreed to submit a signed affidavit directly to Customs with the relevant entry summary numbers attached.

(ii) A non-importing manufacturer's affidavit to substantiate the amount of duties paid on worsted wool fabric imported in calendar year 1999 must be signed by the manufacturer or a knowledgeable authorized officer or employee of the manufacturer, and be submitted to Customs in the following format:

Non-Importing Manufacturer's Affidavit in Support of a Letter of Intent To File a Wool Duty Refund Claim (Where the Manufacturer Possesses the Relevant Entry Summary Numbers)

1. The undersigned, (*name of manufacturer*), is a U.S. manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

2. The undersigned was not the importer in calendar year 1999 of worsted wool fabric of the kind described in item (1) above;

3. The undersigned purchased (*specify quantity*) of imported worsted wool fabric of the kind described in item (1) above from (*name of importer*) or from a supplier (*name of supplier*), and copies of the relevant invoices are attached;

4. Where the undersigned purchased imported worsted wool fabric of the kind described in item (1) above from (*name of supplier*), the undersigned has substantiating documentation that establishes that such fabric was imported by (*name of importer*);

5(a). Attached is a list of relevant entry summary numbers, provided directly to the undersigned by (*name of importer*), that substantiates the amount of duties paid in calendar year 1999 on the fabric identified in the attached invoices; or

5(b). The importer, (*name of importer*), has agreed to submit a signed affidavit directly to Customs that attests to the fact that the importer sold imported worsted wool fabric of the kind described in item (1) above to the undersigned or to identified supplier(s), and to attach a list of the relevant entry summary numbers that substantiates the amount of duties paid in calendar year 1999 on the fabric identified in the attached invoices; and

6. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(iii) If an importer assists in the substantiation of a non-importing manufacturer's letter of intent by submitting relevant entry summary numbers directly to Customs as an attachment to a signed affidavit, the importer's affidavit must be signed by the importer or a knowledgeable officer or employee of the importer and must state that, to the best of the affiant's knowledge and belief, the information contained in the affidavit is accurate and truthful. The importer's signed affidavit must contain the following information:

(A) A statement that the affiant paid duties on worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, imported in calendar year 1999;

(B) Identification of the claimant, or supplier to the claimant, to whom the affiant sold imported worsted wool fabric of the kind described in paragraph (d)(2)(iii)(A) of this section;

(C) A list of relevant entry summary numbers for worsted wool fabric of the kind described in paragraph (d)(2)(iii)(A) of this section, imported in calendar year 1999, set forth as an attachment in either a paper or an electronic format (the latter submitted to Customs on diskette), that substantiates the amount of duty paid in calendar year 1999 on the fabric sold to the identified claimant or identified supplier, as evidenced by the claimant's invoices; and

(D) A statement that the importer has not listed any entry summary in paragraph (d)(2)(iii)(C) of this section that did not liquidate under HTSUS subheadings 5112.11.20 or 5112.19.90.

(iv) The importer's affidavit in support of a non-importing manufacturer's letter of intent to claim a wool duty refund must be signed by the importer or a knowledgeable officer or employee of the importer, and be submitted to Customs in the following format:

Importer's Affidavit in Support of a Non-Importing Manufacturer's Letter of Intent To Claim a Wool Duty Refund

1. The undersigned, (*name of importer*), is an importer who paid duties on worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, imported in calendar year 1999;

2. The undersigned sold worsted wool fabric of the kind described in item (1) above to a manufacturer identified as (*name of manufacturer*) or to a supplier(s) identified as (*name of supplier*);

3. Attached is a list of relevant entry summary numbers for worsted wool fabric of the kind described in item (1) above that substantiates the amount of duties paid in calendar year 1999 on the fabric that was sold to (*name of manufacturer*) or to (*name of supplier(s)*) by the undersigned;

4. The undersigned has not listed any entry summary in item (3) above that did not liquidate under HTSUS subheadings 5512.11.20 or 5112.11.90; and

5. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(3) *Documentation required where the manufacturer is not the importer and the manufacturer does not possess the relevant entry summary numbers.* Where a manufacturer described in paragraph (c)(1) of this section is not the calendar year 1999 importer of worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, and does not possess the relevant entry summary numbers, a letter of intent to file a wool duty refund claim must be submitted to Customs and signed by the non-importing manufacturer or a knowledgeable authorized officer or employee of the manufacturer. The letter of intent must state that, to the best of the signer's knowledge and belief, the information contained in the letter is accurate and truthful.

(i) The non-importing manufacturer's letter of intent, where the manufacturer does not possess the relevant entry summary numbers, must contain the following information:

(A) A statement as to the identity of the importer(s) or supplier(s) who sold imported worsted wool fabric of the kind described in HTSUS subheadings 5512.11.20 or 5112.19.90 to the non-importing manufacturer;

(B) Copies of all relevant calendar year 1999 invoices, set forth as an attachment, that demonstrate that the non-importing manufacturer purchased imported worsted wool fabric of the kind described in paragraph (d)(2)(i)(A) of this section from an identified importer(s) or identified supplier(s);

(C) A statement that if the non-importing manufacturer purchased imported worsted wool fabric of the kind described in paragraph (d)(2)(i)(A) of this section from an identified supplier, the manufacturer has substantiating documentation that establishes that such fabric was imported by the identified importer;

(D) A completed Customs Form (CF) 5106—Importer ID Input Record, set forth as an attachment; and

(E) A signed affidavit, set forth as an attachment, that contains the following information:

(*1*) A statement that the affiant is a U.S. manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

(*2*) A statement that the affiant was not the importer in calendar year 1999 of worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90;

(*3*) A statement of the quantity of imported worsted wool fabric of the

kind described in paragraph (d)(3)(i)(D)(*2*) of this section that the affiant purchased from an identified importer(s) or from an identified supplier(s), with copies of the relevant invoices attached;

(*4*) A statement that where the affiant purchased imported worsted wool fabric of the kind described in paragraph (d)(3)(i)(D)(*2*) of this section from an identified supplier, the affiant has substantiating documentation that establishes that such fabric was imported by the identified importer; and

(*5*) A statement by the affiant that a good faith effort was made to contact the identified importer and request relevant entry summary numbers that substantiate the amount of duties paid in calendar year 1999 on fabric identified in the submitted invoices, but the identified importer is unable or unwilling to provide such assistance.

(ii) A non-importing manufacturer's affidavit to substantiate the amount of duties paid by the importer on worsted wool fabric imported in calendar year 1999, where no entry summary numbers are available, must be signed by the manufacturer or a knowledgeable authorized officer or employee of the manufacturer, and be submitted to Customs in the following format:

Non-Importing Manufacturer's Affidavit in Support of a Letter of Intent To File a Wool Duty Refund Claim (Where the Manufacturer Does Not Possess the Relevant Entry Summary Numbers)

1. The undersigned, (*name of manufacturer*), is a U.S. manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

2. The undersigned was not the importer in calendar year 1999 of worsted wool fabric of the kind described in item (1) above;

3. The undersigned purchased (*specify quantity*) of imported worsted wool fabric of the kind described in item (1) above from (*name of importer*) or from a supplier (*name of supplier*), and copies of relevant invoices are attached;

4. If the undersigned has purchased imported worsted wool fabric of the kind described in item (1) above from (*name of supplier*), the undersigned has substantiating documentation that establishes that such fabric was imported by (*name of importer*);

5. The undersigned attests that a good faith effort was made to contact the identified importer(s) and request that relevant entry summary numbers be provided to either the undersigned or directly to Customs that substantiate the amount of duties paid in calendar year 1999 on fabric identified in the submitted invoices, but the identified importer is unable or unwilling to provide such assistance.

6. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(*4*) *Time to file a letter of intent.* A manufacturer's letter of intent to file a wool duty refund claim, including all attachments and, where applicable, the importer's signed affidavit in support of the manufacturer's letter of intent, must be received by Customs no later than January 31, 2001, unless this date is extended upon due notice in the **Federal Register**.

(e) *Customs verification letter.* Customs will issue to a prospective claimant a written verification letter, within 30 calendar days from the date Customs receives a timely and complete letter of intent that substantiates, to Customs satisfaction, the amount of duties paid on eligible wool products imported in calendar year 1999. The amount of potential duty refund will be based on the quantity of eligible wool products that was imported by the prospective claimant or, where the prospective claimant was not the importer, purchased by the prospective claimant (as indicated by submitted invoices). If entry summary numbers are used to substantiate the amount of duties paid on eligible wool products in calendar year 1999, the potential refund amount will be limited to the amount of duties paid on such entry summaries that is attributable to that quantity of eligible wool products. If invoices are used to substantiate the amount of duties paid on worsted wool fabrics in calendar year 1999, the amount of duties will be determined by deducting 10 percent from the invoice amounts, dividing the resulting adjusted invoice amounts by 100% plus the duty rate (30.6%) to back out the duty, and then multiplying that amount times the duty rate (30.6%). If the aggregate amount of duties attributable to an importer exceeds the amount of duties paid by that importer in calendar year 1999, as indicated by ACS, an adjustment will be made to those claimants requiring use of the invoice formula. The percentage deducted from the invoice amounts for those claimants will be increased on a *pro rata* basis to ensure that the aggregate amount to be refunded does not exceed the ACS amount. Refund amounts substantiated by entry summary numbers will not be reduced. A letter of verification will set forth the following information:

(1) The prospective claimant's claim identification number;

(2) The ACS-generated amount of duties paid on calendar year 1999 imports of the eligible wool products per importer that provide the basis for the prospective claimant's wool duty refund claim;

(3) The maximum amount of wool duty refund that the individual prospective claimant will be eligible to receive in each of calendar years 2000, 2001, and 2002; and

(4) Where invoices are used to substantiate the amount of duties paid on worsted wool fabric in calendar year 1999, the percentage that was deducted from the invoice amounts, with accompanying explanation.

(f) *Eligibility criteria to claim a duty refund in calendar years 2000, 2001, and 2002.* To be eligible to claim a refund of duties paid on imports of certain wool products in calendar years 2000, 2001, and 2002, a claimant must be in receipt of a claim verification letter from Customs. Additionally, in each such calendar year a claimant must be:

(1) A U.S. manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12, for which duties were paid in that year;

(2) A U.S. manufacturer of worsted wool fabric who paid duties in that year on imported wool yarn of the kind described in HTSUS subheadings 5107.10.00 or 9902.51.13; or

(3) A U.S. manufacturer of wool yarn or wool fabric who paid duties in that year on imported wool fiber or wool top of the kind described in HTSUS subheadings 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29 or 9902.51.14.

(g) *Procedures for filing a claim*—(1) *Time to file.* An eligible claimant may submit to Customs, once per calendar year, a request for a refund of duties paid on imports of eligible wool products in each of calendar years 2000, 2001, and 2002. A claim may be amended within 30 calendar days from the date of the original submission or, if Customs has notified the claimant in writing that the claim is insufficient to support a duty refund claim or is otherwise defective, within 30 calendar days from the date of the Customs notification. All claims for a wool duty refund, whether original or amended, must be received by Customs within 90 calendar days from the last day of the calendar year for which a wool duty refund is being sought.

(1) *Place to file.* A claim for a refund of duties paid on imports of eligible wool products must be submitted to: U.S. Customs Service, Wool Refund Claim, Residual Liquidation and Protest

Branch, Rm. 761, 6 World Trade Center, New York, N.Y. 10048–0945.

(2) *Documentation.* (i) *Where the manufacturer is the importer.* To file a wool duty refund claim, an importing-manufacturer must provide Customs with a copy of the verification letter the claimant received from Customs and an affidavit, signed by the manufacturer or a knowledgeable officer or employee of the manufacturer, that contains the following information:

(A) A statement that the affiant is a U.S. manufacturer of the kind described in either paragraphs (f)(1), (f)(2) or (f)(3) of this section, in the current calendar claim year;

(B) A statement of the total amount of duties paid by the affiant in that year on eligible wool products;

(C) The total amount of duty refund being claimed;

(D) A list of relevant entry summary numbers, set forth as an attachment and submitted to Customs in either a paper or an electronic format (the latter on diskette), that substantiates the amount of duties for which a refund is being claimed in paragraph (g)(3)(i)(C) of this section, and does not exceed the affiant's share of duties eligible to be refunded as set forth in the attached verification letter;

(E) A statement that no entry summary has been listed in paragraph (g)(3)(i)(D) of this section that has already had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law; and

(F) A statement that identifies, if applicable, any entry summary listed in paragraph (g)(3)(i)(D) of this section that is, or may become, subject to an outstanding drawback claim, protest, or any other refund claim authorized by law.

(ii) *Form of affidavit.* An importing-manufacturer's signed affidavit to substantiate a wool duty refund claim in calendar years 2000, 2001, or 2002 must be signed by the manufacturer, or a knowledgeable officer or employee of the manufacturer, and be submitted to Customs in the following format:

Importing-Manufacturer's Affidavit in Support of a Claim for a Wool Duty Refund Under Section 505 of the Trade and Development Act of 2000, for Calendar Year

1. The undersigned, (*name of manufacturer*), is a U.S. manufacturer of the kind described in either paragraph (f)(1) [__], (f)(2) [__] or (f)(3) [__] [check one] of § 10.184 of the Customs Regulations (19 CFR 10.184(f), in the current calendar claim year;

2. The undersigned paid (*total amount of duties paid*) in calendar year _____ on eligible wool products;

3. The amount of wool duty refund being claimed is $_____;

4. Attached is a list of the relevant current claim year entry summary numbers that substantiate the amount of duty refund being claimed in item (3) above;

5. The undersigned has not listed any entry summary in item (4) above that has had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law;

6. The undersigned will list any entry summary in item (4) above that is, or may become, subject to an outstanding drawback claim, protest, or any other refund claim authorized by law; and

7. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(iii) *Where the manufacturer is not the importer.* To file a wool duty refund claim a manufacturer of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HSTUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12, who is a purchaser but not the importer of such fabric, must provide Customs with a copy of the verification letter the claimant received from Customs and an affidavit signed by the manufacturer, or a knowledgeable officer or employee of the manufacturer, that contains the following information:

(A) A statement that the affiant is a U.S. manufacturer in the current calendar claim year of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

(B) A statement that the affiant is not the importer in the current calendar year of imported worsted wool fabric of the kind described in paragraph (g)(3)(iii)(A) of this section;

(C) A statement as to the quantity of imported worsted wool fabric of the kind described in paragraph (g)(3)(iii)(A) of this section that the affiant purchased from an identified importer(s) or from an identified supplier(s), with copies of relevant invoices attached;

(D) A statement that where the affiant purchased imported worsted wool fabric of the kind described in paragraph (g)(3)(iii)(A) of this section from an identified supplier(s), the affiant has substantiating documentation that establishes that such fabric was imported by the identified importer(s);

(E) A statement by the affiant that the identified importer(s) has provided a list of relevant entry summary numbers directly to the affiant that substantiates the amount of duties paid in the current calendar claim year on the fabric identified in the submitted invoices, and such information is set forth as an attachment; or

(F) A statement by the affiant that the identified importer(s) has agreed to submit a signed affidavit directly to Customs with the relevant entry summary numbers attached, that substantiates the amount of duties paid in the current calendar claim year on the fabric identified in the submitted invoices.

(iv) *Form of affidavit.* A manufacturer who is not the importer of the imported worsted wool fabric must submit to Customs an affidavit to substantiate a wool duty refund claim in calendar years 2000, 2001, or 2002, signed by the manufacturer or a knowledgeable officer or employee of the manufacturer, in the following format:

Non-Importing Manufacturer's Affidavit in Support of a Claim for a Duty Refund Under Section 505 of the Trade and Development Act of 2000, for Calendar Year

1. The undersigned, (*name of manufacturer*), is a U.S. manufacturer in calendar year _____ of men's or boys' suits, suit-type jackets, or trousers, of imported worsted wool of the kind described 5112.11.20, 5112.19.90, 9902.51.11 or 9902.51.12;

2. The undersigned was not the importer of imported worsted wool fabric of the kind described in item (1) above;

3. The undersigned purchased (*specify quantity*) of imported worsted wool fabric of the kind described in item (1) above from (*name of importer(s)*) or from a supplier(s), and the relevant invoices are attached;

4. Where the undersigned purchased imported worsted wool fabric of the kind described in item (1) above from (*name of supplier*), the undersigned has substantiating documentation that establishes that such fabric was imported by (*name of importer*);

5(a). Attached is a list of relevant entry summary numbers, provided directly to the undersigned by (*name of importer*), that substantiates the amount of duties paid in the current calendar claim year on the fabric identified in the attached invoices; or

5(b). The importer, (*name of importer*), has agreed to submit a signed affidavit directly to Customs that attests to the fact that the importer sold imported worsted wool fabric of the kind described in item (1) above to the undersigned or to (*name of supplier*), and has agreed to attach a list of the relevant entry summary numbers that substantiates the amount of duties paid in the current calendar claim year on

the fabric identified in the attached invoices; and

6. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(v) *Required content of an importer's signed affidavit in support of a manufacturer's wool duty refund claim.* Where an importer chooses to assist in the substantiation of a non-importing manufacturer's wool duty refund claim by submitting relevant entry summary numbers directly to Customs, such entry information must be set forth as an attachment to an affidavit that is signed by the importer or by a knowledgeable officer or employee of the importer, and must contain the following information:

(A) A statement as the total amount of duties that the importer paid in the current calendar claim year on worsted wool fabric of the kind described in paragraph (g)(3)(iii) of this section;

(B) A statement that the importer sold worsted wool fabric of the kind described in paragraph (g)(3)(iii) of this section, to the identified manufacturer or to the identified supplier(s);

(C) A list of relevant entry summary numbers for the worsted wool fabric of the kind described in paragraph (g)(3)(iii) of this section, set forth as an attachment in either a paper or an electronic format (the latter submitted to Customs on diskette), that substantiates the amount of duties paid during the current calendar claim year on such fabric that was sold by the importer to the identified manufacturer or to the identified supplier(s);

(D) A statement that no entry summary number has been listed in paragraph (g)(3)(v)(C) of this section that has already had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law; and

(E) A statement that lists any entry summary number in paragraph (g)(3)(v)(C) of this section that is, or may become, subject to an outstanding drawback claim, protest, or any other refund claim authorized by law.

(vi) *Form of affidavit.* The importer's affidavit in support of a manufacturer's wool duty refund claim must be signed by the importer or by a knowledgeable officer or employee of the importer, and be submitted to Customs in the following format:

Importer's Affidavit in Support of a Non-Importing Manufacturer's Claim for a Duty Refund Under Section 505 of the Trade and Development Act of 2000, for Calendar Year

1. The undersigned, (*name of importer*), is an importer who paid duties in calendar year _____ on worsted wool fabric of the kind described in HTSUS subheadings 5112.11.20 or 5112.19.90, imported in calendar year 1999;

2. The undersigned sold worsted wool fabric of the kind described in item (1) above to a manufacturer identified as (*name of manufacturer*) or to a supplier(s) identified as (*name of supplier*);

3. Attached is a list of relevant entry summary numbers for worsted wool fabric of the kind described in item (1) above that substantiates the amount of duties paid in the current calendar claim year on such fabric that was sold by the undersigned to (*name of manufacturer*) or to an identified supplier(s) (*name of supplier*);

4. The undersigned has not listed any entry summary in item (3) above that has had 99% or more of the amount of duties paid on that entry refunded pursuant to any refund claim authorized by law;

5. The undersigned will list any entry summary in item (3) above that is, or may become, subject to an outstanding drawback claim, protest, or any other refund claim authorized by law; and

6. The undersigned attests that the information set forth in this affidavit is true and accurate to the best of the affiant's knowledge and belief.

(h) *Wool duty refund claim processing procedures.* Upon receipt of a timely and complete wool duty refund claim filed pursuant to the terms of this section, Customs will determine the liquidation status of the entry summaries used to substantiate the claim. No duty refund will be issued to a claimant until all the entry summaries identified for purposes of substantiating the claim have been liquidated.

(i) *Denial of a wool duty refund claim.* Customs may deny a wool duty refund claim if the claim was not timely filed, if the claimant is not eligible pursuant to the terms of this section, or if the claimant has not complied with the requirements of this section. Customs will provide the claimant with written notice of the denial of the claim, including the reason for the denial.

(j) *Multiple refund claims and pending judicial review—(1) Order of precedence for multiple section 505 duty refund claims.* An eligible claimant is entitled to payment in order of the precedence established by the date and time of submission of a timely and complete claim for a request for refund of duties pursuant to the terms of this section.

(2) *Order of precedence for section 505 duty refund claims and other refund claims.* If a claim for a section 505 duty refund has been received by Customs, and a protest, request for reliquidation, drawback claim, or any other refund claim authorized by law, that relates to any of the eligible wool products identified in any of the entry summaries used to substantiate the filed section 505 claim, has also been filed with Customs but remains undecided, the claim that was received first by Customs, and deemed timely and complete, will be processed first.

(3) *Allowance or denial of subsequent claims.* If an entry has been used to provide the basis for a duty refund claim pursuant to section 505, and the entire amount of duties paid on that entry was refunded to the claimant, a claim for drawback, or any other refund claim authorized by law, that is based on that entry, will be denied by Customs. If an entry has been used to substantiate a claim for a section 505 duty refund, and an amount in duties paid on that entry has not been refunded, the remaining amount may be eligible for subsequent section 505 duty refund claims, drawback, or any other refund claim authorized by law. An entry that has already had 99% or more of the duties paid on that entry refunded by way of a drawback claim, protest, or any other claim authorized by law, may not be used to provide the basis for a wool duty refund claim.

(4) *Pending judicial review.* If a summons involving the tariff classification or the dutiability of an imported wool product has been filed in the Court of International Trade, Customs will deem any entry summary at issue in that judicial proceeding ineligible to substantiate a duty refund claim.

(k) *Penalties and liquidated damages.* A wool duty refund claimant's failure to comply with any of the procedural requirements set forth in this document, or failure to adhere to all applicable laws and regulations, may subject the claimant to penalties, liquidated damages or other administrative sanctions.

Raymond W. Kelly,

Commissioner of Customs.

Approved: October 19, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–27522 Filed 10–24–00; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6892–3]

Availability of Additional Information on Nitrogen Oxides Emissions From Portland Cement Kilns Under Proposed Section 110 Federal Implementation Plan Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is making available to the public additional information on nitrogen oxides (NO_X) emissions from portland cement kilns relating to the proposed Federal implementation plan (FIP) rulemaking. The purpose of this rulemaking is to reduce interstate transport of ozone by controlling emissions of NO_X. The NO_X emissions significantly contribute to violations of the national ambient air quality standards for ozone in downwind States. This document announces the availability of additional information that will be used to estimate the costs and effectiveness of controls to reduce emissions of NO_X at cement kilns.

ADDRESSES: Documents relevant to this action are available for inspection at the Office of Air and Radiation Docket and Information Center (6102), Docket Nos. A–98–12 (Section 110 FIP rulemaking) and A–96–56 [NO_X State implementation plan (SIP) Call rulemaking], U.S. Environmental Protection Agency, 401 M Street, room M–1500, Washington, DC 20460, telephone (202) 260–7548 between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Other documents related to this proposed rulemaking have been made available in electronic form at the following EPA websites: http://www.epa.gov/ttn/rto under "NO_X SIP Call" and "Transport FIPs."

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to David Cole, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–5565, e-mail at *cole.david@epa.gov*. Technical questions concerning cement kiln data should be addressed to Doug Grano at telephone (919) 541–3292, e-mail at *grano.doug@epa.gov*.

SUPPLEMENTARY INFORMATION:

Outline

1. What Is Today's Action?

Today, we are making available information on emissions of NO_X from portland cement kilns that could potentially be affected by a Federal action by a FIP under section 110 of the Clean Air Act. The purpose of making the information available is to ensure that we have accurate and up-to-date information to characterize the costs and effectiveness of NO_X controls at cement kilns.

2. How Is This Action Related to the Section 110 Final NO_X SIP Call Rulemaking and the Proposed FIP Rulemaking?

On September 24, 1998, in accordance with section 110, we issued a final rule to require 22 States and the District of Columbia to submit SIP revisions to prohibit specified amounts of emissions of NO_X-one of the precursors to ozone (smog) pollution-for the purpose of reducing NO_X and ozone transport across State boundaries in the eastern half of the United States. (63 FR 57356, October 27, 1998). On October 21, 1998, we proposed FIPs that may be needed if any State fails to revise its SIP to comply with the NO_X SIP Call. (63 FR 56393, October 21, 1998). The FIP proposes to control NO_X emissions from large stationary sources, including cement kilns. The information announced today will be used to support estimates of costs and NO_X emissions reductions potential for cement kilns if we issue a FIP because a State fails to respond adequately to the NO_X SIP Call.

The Section 110 NO_X SIP Call Notice of Final Rulemaking and the FIP Notice of Proposed Rulemaking are contained in the rulemaking dockets. They are also currently available on EPA's website at *http://www.epa.gov/ttn/rto/* under "NO_X SIP Call" and "Transport FIPs."

3. What Information Is EPA Making Available?

The new information is primarily contained in a September 19, 2000 report entitled "NO_X Control Technologies for the Cement Industry," prepared for EPA by EC/R, Incorporated. This report updates information in the "Alternative Control Techniques Document-NO_X Emissions from Cement Manufacturing" (EPA–453/R–94–004), which was the primary reference used in preparing the cement kiln portion of the proposed FIP rulemaking. Updated information on uncontrolled NO_X emissions from cement kilns and on the current use, effectiveness and cost of NO_X controls is contained in the September 2000 report. The NO_X controls discussed in this report include low NO_X burners, mid-kiln firing, CemStar®, and selective noncatalytic reduction. This report was placed in the docket on September 21, 2000.

In addition, EPA is making available in the docket, by mid-October, key references cited in the EC/R report. See appendix A at the end of this notice. These references include information obtained from the portland cement industry, NO_X control vendors and State and regional agencies. Also available is a document describing experience with NO_X controls for cement kilns in Europe at the following website: *http://eippcb.jrc.es.*

4. How Is This Information Related to the Section 110 NO_X SIP Call Final Rulemaking and the Proposed FIP Rulemaking?

The EPA believes this information is helpful in determining the costs and effectiveness of NO_X controls, including controls proposed in the FIP. The FIP proposed to require installation and operation of low-NO_X burners, mid-kiln firing, or "alternative control techniques," subject to approval by EPA, that achieve at least the same 30 percent emissions decrease as low-NO_X burners or mid-kiln firing (63 FR 56416, October 21, 1998). The proposal listed emission rates for each type of kiln that would be considered to meet the "alternative control techniques" test.

New information in the September 2000 EC/R report identifies certain NO_X control techniques that should also be considered "alternative control techniques" because they are expected to achieve, on average, at least a 30 percent emissions decrease. Those techniques are described in chapter 5 of the EC/R report and are as follows: CemStar®, low-NO_X precalciner, tire-derived fuel at a preheater or precalciner, and selective non-catalytic reduction, including biosolids injection.

5. Where Can I Get the Information?

The EC/R report is available on the Regional Transport of Ozone (RTO) website at *http://www.epa.gov/ttn/rto/*. You will find links to the data under "What's New" and under the "Related Documents and Data" subheadings

under the "Transport FIPs" and "NO_X SIP Call" headings. In addition, the report and key references are in Docket No. A–98–12 (section 110 FIP rulemaking).

Dated: October 19, 2000.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

Appendix A—Key References for Cement Kiln Report

1. Andover Technology Partners. NO_X Reduction from Cement Kilns Using the CemStar® Process, Evaluation of CemStar® Technology—Final Report to Texas Industries. Dallas, Texas. April 18, 2000.

2. Letter and attachments from M.H. Vaccaro, Pillard Combustion Equipment and Control Systems, to G.J. Hawkins, Portland Cement Association, re: Low NO_X Rotaflam® burner, dated January 20, 1999.

3. PSM International, "Response to USEPA Comments, 13 September 1995, on the proposed alternative NO_X RACT for a portland cement manufacturing plant located in Thomaston, Maine and owned by Dragon Products Company," Jan 31, 1996.

4. Battye, R., and S. Edgerton, EC/R Incorporated. "December 2, 1999 Trip Report to Mitsubishi Cement Corporation, Cushenbury Plant." Lucerne Valley, CA. Submitted to Dave Sanders, US EPA, under contract No. 68–D–98–026, work assignment No. 2–28. August 31, 2000.

5. Shumway, D.C. "Tire Derived Fuel at Mitsubishi Cement Corporation." Received during December 2, 1999 visit to Mitsubishi.

6. Shumway, D.C. Mitsubishi Cement Corporation's Cushenbury Plant presented at the IEEE West Coast Cement Industry Conference. Victorville, CA. Oct 1995.

7. Cadence Environmental Energy and Ash Grove Cement. "Mid-Kiln Fuel Entry Benefits," section 3 of the report, Emission, Reduction, Technology: Resource Conservation & Recovery. (no date).

8. Letter from Edgerton, S. and T. Stobert, EC/R Inc., to Bill Neuffer, EPA, Feb 8, 2000. Minutes from Dec 16, 1999 meeting with representatives from EPA and Cadence.

9. May, M. and L. Walters, Jr. "Low NO_X & Tire-derived Fuel for the Reduction of NO_X from the Portland Cement Manufacturing Process." Cement Americas, August 1999, pp. 10–1.

10. Letter and attachments from Bramble, Kim, Cadence, to Bill Neuffer, USEPA, re: NO_X Emission Reducing Technology, dated Feb 14, 2000.

11. Radian Corporation, "MDE Air Permit Test Report for Lehigh Portland Cement Company, Union Bridge, Maryland Facility," January 1996.

12. Lin, M.L., and M.J. Knenlein, Fuel Tech, Inc. Cement Kiln NO_X Reduction Experience Using the NO_XOUT® Process. Proceedings of 2000 International Joint Power Generation Conference, Miami Beach, FL., July 23–26, 2000.

13. Biggs, H.O., Plant Manager, Mitsubishi Cement Corporation. Biosolids Injection Technology: An Innovation in Cement Kiln NO_X Control. (no date). Received during December 1999 trip report.

14. Sun, et.al. Reduction of NO_X Emissions from Cement Kiln/ Calciner through the Use of the NO_XOUT® Process. Presented at the International Specialty Conference on Waste Combustion in Boilers and Industrial Furnaces. Kansas City, MO. April 1994.

15. Interoffice Correspondence from McAnany, L. to Knopfel, H., LaFarge Corporation. October 26, 1998. re: Fuel Tech NO_XOUT® Testing.

16. Letter with attachments from Bramble, K.J., Cadence Environmental Energy Inc., Michigan City, IN, to W. Neuffer, U.S. EPA, RTP, NC. January 20, 2000. Cost of a mid-kiln firing system.

17. Electronic mail from Joe Truini, Waste News to Lee-Greco, J., EC/R Incorporated, Durham, NC. July 28, 2000. Average tire tipping fees.

18. Telecon. Neuffer, W., US EPA, Durham, NC and Mayes, G., TAI, Dallas, TX. March 24, 2000. Information on the CemStar® Process.

19. Telecons. Lee-Greco, J., EC/R Incorporated, Durham, NC and Mayes, G., TAI, Dallas, TX. July 20 and 28, 2000. Additional information on the costs of installing CemStar®.

20. Electronic mail and telecon. Vaccaro, M., Pillard E.G.C.I., Marseille, France with Lee-Greco, J., EC/R Incorporated, Durham, NC. July 26, 2000. Costs of low-NO_X burners.

21. Letter and attachments from Bennett, J.H., California Portland Cement, Glendora, CA to Neuffer, W.J., U.S. EPA, RTP, NC. July 2, 1999. Cost of firing system conversion.

22. PSM International, Inc. Available Control Techniques for NO_X Emissions from the Portland Cement Manufacturing Plant of California Portland Cement Company located in Colton, California. Prepared by PSM International, Inc., Dallas, Texas for California Portland Cement, Glendora, CA. March 6, 1995. Heat input for Colton Plant kilns. p.12.

23. Battye, R., EC/R Incorporated, Chapel Hill, NC. Trip Report to California Portland Cement Company, Colton Plant, Colton, CA, December 2, 1999. Prepared for the U.S. EPA, RTP, NC, under contract No. 68–D–98–026, work assignment No. 2–28. August 16, 2000.

24. Telecon. Lee-Greco, J., EC/R Incorporated, Durham, NC and Knenlein, M.J., Fuel Tech, Inc. August 17, 2000. Additional cost information for NO_XOUT® process.

25. Letter and attachments from Six, E.B., Spencer Fan Britt & Browne LLP, Kansas City, MO to P. Hamlin, Iowa Department of Natural Resources, Urbandale, IA. Lafarge Corporation Draft Construction Permit for Air Emission Source Plant # 82–01–006, project # 96–494. March 10, 1999. Attachment E—SNCR Data Analysis.

[FR Doc. 00–27582 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[WI99–01–7330b; FRL–6891–4]

Approval and Promulgation of Maintenance Plan Revisions; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a September 8, 2000 request from Wisconsin for a State Implementation Plan (SIP) revision of the Walworth County, Wisconsin ozone maintenance plan. The maintenance plan revision allocates a portion of the safety margin to the transportation conformity Mobile Vehicle Emissions Budget (MVEB) for the year 2007. EPA is approving the allocation of 0.5 tons per day of Volatile Organic Compounds (VOC) to the area's 2007 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule we plan to take no further action in relation to this proposed rule. If we receive significant adverse comments, in writing, which we have not addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Written comments must be received on or before November 27, 2000.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J),

U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Please contact Michael G. Leslie at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680.

SUPPLEMENTARY INFORMATION: Where can I find more information about this proposal and the corresponding direct final rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: October 11, 2000.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 00–27400 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–24–01–7201c; A–1–FRL–6892–9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; (Amendment to Massachusetts' SIP [For Ozone and for Carbon Monoxide] for City of Cambridge Vehicle Trip Reduction Program—in the Metropolitan Boston Air Pollution Control District); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: EPA is extending the comment period for its proposed action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes, and requires the City of Cambridge to implement and operate, the City of Cambridge Vehicle Trip Reduction Program as a substitute for the commercial parking control measures currently in the SIP.

DATES: Comments must be received on or before December 18, 2000. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning , Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Waste Prevention, Department of Environmental Protection, One Winter Street, 8th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, (617) 918–1668 or e-mail *COOKE.DONALD@EPA.GOV*.

SUPPLEMENTARY INFORMATION: On September 18, 2000 (65 FR 56278–56283), EPA proposed a revision to the Massachusetts State Implementation Plan (SIP) for Ozone and Carbon Monoxide, for a City of Cambridge Vehicle Trip Reduction Program in the Metropolitan Boston Air Pollution Control District. The revision consists of Massachusetts's new state regulation 310 CMR 60.04—"City of Cambridge Vehicle Trip Reduction Program."

The proposal provided a 30 day public comment period that was originally scheduled to end October 18, 2000. In response to a request from the Massachusetts Department of Environmental Protection as well as a request from a representative for the City of Cambridge, EPA is extending the comment period for an additional 60 days.

Dated: October 13, 2000.

Mindy S. Lubber,

Regional Administrator, EPA—New England.

[FR Doc. 00–27580 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 110–1110a; FRL–6889–9]

Approval and Promulgation of Implementation Plans State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri pertaining to the adoption of a statewide visible emissions rule, and the rescission of four areawide visible emissions rules.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by November 27, 2000.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 00–27145 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–119–1–7448b; FRL–6886–2]

Approval and Promulgation of Implementation Plans; Texas; Water Heaters, Small Boilers, and Process Heaters; Agreed Orders; Major Stationary Sources of Nitrogen Oxides for the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to take direct final action on revisions to the Texas State Implementation Plan. This rulemaking covers four separate actions. First, we are approving revisions to the Nitrogen Oxides (NO_X) SIP to add a rule for water heaters, small boilers, and process heaters sold and installed in Texas (the Texas Water Heater Rule). This rule will contribute to attainment

of the 1-hour ozone standard in the Beaumont/Port Arthur (B/PA), Houston/Galveston (H/GA), and Dallas/Fort Worth (D/FW) nonattainment areas and will contribute to continued maintenance of the standard in the rest of the State of Texas. Second, we are approving revisions to the Texas NO_X SIP for certain major stationary point source categories in the B/PA ozone nonattainment area. These new limits for certain stationary point sources will contribute to attainment of the 1-hour ozone standard in the B/PA area. Third, we are approving revisions to the existing approved Texas NO_X Reasonably Available Control Technology SIP because the changes are administrative in nature. Fourth, we are approving two Agreed Orders between the State of Texas and two companies in Northeast Texas. These Orders will contribute to attainment of the 1-hour ozone standard in the B/PA, H/GA, and D/FW nonattainment areas and will contribute to continued maintenance of the standard in the eastern half of the State of Texas.

The EPA is approving these revisions to regulate emissions of Nitrogen dioxide in accordance with the requirements of the Federal Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register,** EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comments, the EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is independent of the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received by November 27, 2000.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

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

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, P.E., Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691.

SUPPLEMENTARY INFORMATION: This document concerns Control of Air Pollution from Nitrogen Compounds for major stationary sources in the B/PA ozone nonattainment area and the control measures for attainment demonstration purposes. For further information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

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

Dated: October 3, 2000.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 00–27030 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 108–1108a; FRL–6890–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri pertaining to an update to a St. Louis SIP-approved ordinance, to recission from the SIP of two revoked incinerator permits, and to a minor revision of the one remaining incinerator permit.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by November 27, 2000.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register.**

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 00–27147 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 116–1116; FRL–6890–5]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri pertaining to its Submission of Emission Data, Emission Fees, and Process Information rule and to also approve this rule as it pertains to Missouri's part 70 operating permits program. EPA also proposes to remove from the SIP the state's General Organization rule. In the final rules section of the **Federal Register**, EPA is approving the state's submission as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse

comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by November 27, 2000.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: October 6, 2000.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 00–27149 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6889–6]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Tennessee has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Tennessee. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by November 27, 2000.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. You can examine copies of the materials submitted by Tennessee during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104, Phone number: (404) 562–8190; or Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535, Phone number: (615) 532–0850.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency at the above address and phone number.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: August 29, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–27141 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6892–7]

Vermont: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Vermont has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Vermont. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by November 27, 2000.

ADDRESSES: Send written comments to Geri Mannion, EPA New England, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Phone number: (617) 918–1648. You can examine copies of the materials submitted by Vermont during normal business hours at the following locations: EPA New England Library, One Congress Street, Suite 1100 (LIB), Boston, MA 02114–2023; Phone number: (617) 918–1990; Business hours: 9 a.m. to 4 p.m.; or the Agency of Natural Resources, 103 South Main Street—West Office Building, Waterbury, VT 05671–0404; Phone number: (802) 241–3888; Business hours: 7:45 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Geri Mannion at (617) 918–1648.

SUPPLEMENTARY INFORMATION: In addition to proposing the authorization for changes to Vermont's hazardous waste program, EPA is making a technical correction to provisions referenced in its immediate final rule published in the **Federal Register** on May 3, 1003 (58 FR 31911) which authorized the State for revisions to its hazardous waste program. This proposed rule relates only to the immediate final rule to authorize the State's program changes and not to the technical corrections to the 1993 **Federal Register**.

For additional information, please see the immediate final rule published in

the "Rules and Regulations" section of this Federal Register.

Dated: October 18, 2000.

Mindy S. Lubber,

Regional Administrator, EPA New England.

[FR Doc. 00–27577 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 80, 84, 86, 90, and 91

RIN 0991–AB10

Office for Civil Rights; Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age to Conform to the Civil Rights Restoration Act of 1987

ACTION: Proposed rule.

SUMMARY: The Secretary proposes to amend the Department of Health and Human Services regulations implementing Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975 to conform with certain statutory amendments made by the Civil Rights Restoration Act of 1987 (CRRA). The principal proposed conforming change is to amend the regulations to add definitions of "program or activity" or "program" that correspond to the statutory definitions enacted under the CRRA.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 27, 2000.

ADDRESSES: Mail written comments or deliver them to the following address: Office for Civil Rights, Department of Health and Human Services, 200 Independence Avenue, SW., Room 509–F, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Ellis, (202) 619–0403; Kathleen O'Brien, (202) 619–2829; TDD 1–800–537–7697.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (Department or HHS) proposes to amend its civil rights regulations to conform to certain provisions of the Civil Rights Restoration Act of 1987 (Pub. L. 100–259) (CRRA), regarding the scope of coverage under civil rights statutes administered by the Department. These statutes include Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.* (Title VI), Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq.* (Title IX), Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504), and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (Age Discrimination Act). Title VI prohibits discrimination on the basis of race, color, and national origin in all programs or activities that receive Federal financial assistance; Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance; section 504 prohibits discrimination on the basis of disability in all programs or activities that receive Federal financial assistance; and the Age Discrimination Act prohibits discrimination on the basis of age in all programs or activities that receive Federal financial assistance.

The principal proposed conforming change is to amend each of these regulations to add a definition of "program or activity" or "program" that adopts the statutory definition of "program or activity" or "program" enacted as part of the CRRA. We believe that adding this statutory definition to the regulatory language is the best way to avoid confusion on the part of recipients, beneficiaries, and other interested parties about the scope of civil rights coverage.

The Department's civil rights regulations, when originally issued and implemented, were interpreted by the Department to mean that acceptance of Federal assistance by an entity resulted in broad institutional coverage. In *Grove City College* v. *Bell,* 465 U.S. 555, 571–72 (1984) (*Grove City College*), the Supreme Court held, in a Title IX case, that the provision of Federal student financial assistance to a college resulted in Federal jurisdiction to ensure Title IX compliance in the specific program receiving the assistance, *i.e.,* the student financial aid office, but that the Federal student financial assistance would not provide jurisdiction over the entire institution. Following the Supreme Court's decision in *Grove City College,* the Department changed its interpretation, but not the language, of the governing regulations to be consistent with the Court's restrictive, "program specific" definition of "program or activity" or "program". Since Title IX was patterned after Title VI, *Grove City College* significantly narrowed the coverage of Title VI and two other statutes based on it: The Age Discrimination Act and Section 504. *See* S. Rep. No. 100–64, at 2–3, 11–16 (1987).

Then, in 1988, the CRRA was enacted to "restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered." 20 U.S.C. 1687 note 1. Congress enacted the CRRA in order to remedy what it perceived to be a serious narrowing by the Supreme Court of a longstanding administrative interpretation of the coverage of the regulations. At that time, the Department reinstated its broad interpretation to be consistent with the CRRA, again without changing the language of the regulations. It was and remains the Department's consistent interpretation that—with regard to the differences between the interpretation of the regulations given by the Supreme Court in *Grove City College* and the language of the CRRA—the CRRA, which took effect upon enactment, superseded the *Grove City College* decision and, therefore, the regulations must be read in conformity with the CRRA in all their applications.

This interpretation reflects the understanding of Congress, as expressed in the legislative history of the CRRA, that the statutory definition of "program or activity" or "program" would take effect immediately, by its own force, without the need for Federal agencies to amend their existing regulations. S. Rep. No. 100–64, at 32. The legislative history also evidences congressional concern about the Department's immediate need to address complaints and findings of discrimination in federally assisted schools under the CRRA definition of "program or activity", and includes examples demonstrating why the CRRA was "urgently" needed. *See* S. Rep. No. 100–64, at 11–16.

The proposed regulatory change described in the previous paragraph would address an issue recently raised by the Third Circuit Court of Appeals in *Cureton* v. *NCAA,* 198 F.3d 107, 115–16 (1999) (*Cureton*). That court determined that, because the Department did not amend its Title VI regulation after the enactment of the CRRA, application of the Department's Title VI regulation to disparate impact discrimination claims is "program specific" (*i.e.,* limited to specific programs in an institution affected by the Federal funds), rather than institution-wide (*i.e.,* applicable to all of the operations of the institution regardless of the use of the Federal funds). In the court's view, the regulations should clarify the application of the broad institutional coverage to disparate impact claims, because the disparate impact analysis appears in regulation, and not in a statute. We disagree with the *Cureton* decision for the reasons described in

this preamble. Nevertheless, the proposed regulatory changes would explicitly incorporate definitions of "program or activity" or "program" that correspond to those enacted under the CRRA and thereby remove any doubt that the regulations apply institution-wide to both disparate impact discrimination and disparate treatment discrimination. ("Disparate treatment" refers to policies or practices that treat individuals differently based on their race, color, national origin, sex, disability, or age, as applicable. Disparate treatment is generally barred by the civil rights statutes and regulations. "Disparate impact" refers to criteria or methods of administration that have a significant disparate effect on individuals based on race, color, national origin, sex, disability, or age, as applicable. Those criteria or practices may constitute impermissible discrimination based on legal standards that include consideration of their necessity.)

The statutory definition, which is being incorporated into the regulations, addresses four broad categories of recipients: (1) State or local governmental entities; (2) Colleges, universities, other postsecondary educational institutions, public systems of higher education, local educational agencies, systems of vocational education, and other school systems; (3) Private entities, such as corporations, partnerships, and sole proprietorships, including those whose principal business is providing education, health care, housing, social services, or parks and recreation; and (4) Entities that are established by a combination of two or more of the first three types of entities.

Under the first part of the definition, if State and local governmental entities receive financial assistance from the Department, the "program or activity" or "program" in which discrimination is prohibited includes all of the operations of any State or local department or agency to which the Federal assistance is extended. For example, if the Department provides financial assistance to a State health agency, all of the agency's operations are subject to the nondiscrimination requirements of the regulations. In addition, "program or activity" or "program" includes all of the operations of the entity of a State or local government that distributes the Federal assistance to another State or local governmental agency or department and all of the operations of the State or local governmental entity to which the financial assistance is extended.

Under the second part of the definition of "program or activity" or "program", if colleges, universities, other postsecondary institutions, public systems of higher education, local educational agencies, systems of vocational education, or other school systems receive financial assistance from the Department, all of their operations are subject to the nondiscrimination requirements of the regulations. For example, if a college or university receives Federal financial assistance from the Department to support medical research, all of the operations of the college or university are covered, not solely the operations of the component performing the medical research.

Under the third part of the definition, in the case of private entities not already listed under the second part of the definition, if the Federally assisted entity or organization is principally engaged in the business of education, health care, housing, social services, or parks and recreation, then the entire corporation, partnership, or other private organization or sole proprietorship is the covered "program or activity" or "program". For example, if a private hospital receives financial assistance from the Department, it will be covered on an institution-wide basis under this portion of the definition of "program or activity" or "program" because it is an entity principally engaged in the business of providing health care. All of its operations are covered by the nondiscrimination requirements of the regulations.

Also under the third part of the definition, if a private entity is not principally engaged in the business of education, health care, housing, social services, or parks and recreation, and the Department extends financial assistance to the private entity "as a whole", all of the private entity's operations at all of its locations would be covered. If the Department were to extend general assistance, that is, assistance that is not designated for a particular purpose, to this type of corporation or other private entity, that would be considered financial assistance to the private entity "as a whole". In other instances in which the Department extends financial assistance to this type of entity, the coverage would be limited to the entire plant or other comparable geographically separate facility to which assistance is extended.

Under the fourth part of the definition, if an entity of a type not already covered by one of the first three parts of the definition is established by two or more of the entities listed under the first three parts of the definition, then all of the operations of that new entity are covered.

The proposed regulations also would modify or delete some existing sections of the Department regulations that have become superfluous following the CRRA enactment, to conform with the CRRA definitions of "program or activity" or "program." This is consistent with the approach taken by other Federal agencies in the Title IX common rule NPRM, for example, in which it was noted that regulatory language in the Department of Education's Title IX regulations made superfluous by the enactment of the CRRA was omitted in that proposed rule (64 FR 58568, 58571). The Title IX, Title VI, and section 504 regulations of the Department of Education and HHS are substantially similar because both were derived from the original Department of Health, Education and Welfare regulation.

The Department's Title IX regulations, promulgated in 1975, defined "recipient" as an entity "to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance." 45 CFR 86.2(h). At that time, the words "or benefits from" were necessary to clarify that *all* of the operations of a university or other educational institution that receives Federal financial assistance—not just the particular programs receiving financial assistance—are covered by Title IX's nondiscrimination requirements. As previously discussed, this interpretation was rejected by the Supreme Court in 1984 in *Grove City College,* which held that Federal student financial aid established Title IX jurisdiction only over the financial aid program, not the entire institution. However, Congress' 1988 enactment of the CRRA counteracted this decision by defining "program or activity" and "program" to provide expressly that Title IX covers all educational programs of a recipient institution. Because of this statutory change, the words "or benefits from" are no longer necessary as a regulatory matter. For that reason, we propose to delete the words "or benefits from" and similar phrases from the Title IX regulation. We also propose to delete similar language from the Department's Section 504 and Age Discrimination Act regulations. These deletions do not affect the reach of Title IX, Section 504, or the Age Discrimination Act.

The existing Title VI regulation of the Department of Health and Human Services, promulgated in 1964 by the Department of Health, Education, and Welfare in 29 FR 16298 and 29 FR

16988 and in 1965 in 30 FR 16988, include an assurance requirement for institutions in § 80.4(d)(2) that has created confusion with regard to the scope of "program or activity" and "program" under Title VI. One example is the previously referenced decision in *Cureton*. The current provision states, in part: The assurance "* * * shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought * * *". 45 CFR 80.4(d)(2). This NPRM proposes to delete that portion of the assurance to avoid any further confusion. As previously stated, it was appropriate to apply the CRRA statutory definition of "program or activity" to the regulations. For the same reasons, portions of the illustrations in § 80.5(c) and (e) would be deleted, since they could create similar confusion. Specifically, current § 80.5(c) states that, with regard to prohibited discrimination in university graduate research, training, demonstration, or other grants, "the prohibition extends to the entire university unless it satisfies the responsible Department official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school." Similarly, current § 80.5(e) states: "In other construction grants the assurances required will be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress." These proposed deletions would not affect the reach of Title VI.

In addition, we are proposing conforming changes that delete references to "program" or "program or activity" in the existing regulations that refer to Federal Financial assistance or to specific activities of the recipient, or that conform the meaning to the broad definition in the CRRA and eliminate potential confusion in the use of these terms, and continue the longstanding Department interpretation of the statutes and regulations. These changes will ensure that there is no confusion as to the use of these terms in the regulations. For example, in the Title VI regulation § 80.2 refers to "Federal assisted programs and activities listed in Appendix A to this part." Appendix A is a list of Federal financial assistance triggering coverage under the civil rights laws. "Federal assisted programs and activities" as used in § 80.2 clearly refers to Federal programs of assistance. We propose to delete "assisted programs and activities" in this subsection and substitute "financial assistance." We are proposing comparable conforming changes in our Title VI, Section 504, Title IX and Age Discrimination Act regulations, including both the government-wide coordinating Age Discrimination Act regulation and the HHS-specific Age Discrimination Act regulation. For example, in some instances, we have proposed to delete "program" or "program or activity" and substitute "Federal financial assistance," or "aids, benefits or services." These substitutions are not intended to change the scope or substance of the regulations. They are intended only to remove any confusion that might result from the adoption of the proposed definitions of "program or activity" or "program". In other instances, we have proposed to change "programs *and* activities" to "programs or activities" to conform the regulation to the phrase used in the CRRA—when it is used in the broad manner defined in the CRRA. We have not proposed to modify the term "activity" when it appears separately from the phrase "program or activity" and is used in a manner unrelated to the CRRA phrase "program or activity." These proposed changes are not intended to change the scope or substance of the regulations, but to remove any confusion that might result from the proposed definitions.

It is important to note that the proposed changes would not in any way alter the requirement of the CRRA that a proposed or effectuated fund termination be limited to the particular program or programs "or part thereof" that discriminates or, as appropriate, to all of the programs that are infected by the discriminatory practices. *See* S. Rep. No. 100–64, at 20 ("The [CRRA] defines 'program' in the same manner as 'program or activity,' and leaves intact the 'or part thereof' pinpointing language.").

We propose to replace the current definition of "program" in the Title VI regulation in 45 CFR 80.13 with the proposed definition of "program or activity" and "program". We propose to add the definition of "program or activity" and "program" to the Title IX regulation in 45 CFR 86.2. We propose to add the definition of "program or activity" to the Section 504 regulation in 45 CFR 84.3, the government-wide Age Discrimination Act regulation in 45 CFR 90.4, and the HHS-specific Age Discrimination Act regulation in 45 CFR 91.4. Because, as previously explained, the proposed changes merely incorporate statutory language and do not alter the Department's consistent position that the regulations must be read in conformity with the CRRA, the Department views these changes as technical in nature. However, the Department is inviting public comment on the proposed changes, consistent with its policy of involving interested members of the public in its rulemaking process. Conforming changes to the nonregulatory guidance in Appendix B of part 80 and Appendix A of part 84 will be published in the **Federal Register** in a separate notice. Nothing in these proposed changes affects coverage under the Federal employment nondiscrimination statutes, including Title VII of the Civil Rights Act of 1964, Title I of the Americans with Disabilities Act, and the Age Discrimination in Employment Act.

Collection of Information Requirements

This proposed rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995.

Regulatory Impact Analysis

We have examined the impacts of this proposed rule as required by Executive Order 12866, the Unfunded Mandates Reform Act of 1995, and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects of $100 million or more annually. We have determined that there probably will be no cost impacts because this regulatory action implements statutory amendments and longstanding Department policy. Recently the Third Circuit Court of Appeals interpreted existing regulations inconsistently with the language of the CRRA and our existing practices. The Department disagrees with that decision. However, these proposed regulations would clarify the Department's policy and practice in light of that decision, and would do that only a short time after the court decision, thereby ensuring continuity in that policy and practice and avoiding changes in the behavior of recipients within the Third Circuit that could occur if Federal civil rights jurisdiction were changed. Therefore, it is possible that there will be no costs

associated with the proposed regulations. Since we believe that this proposed rule would have no significant effect on program expenditures, we do not consider this to be a major rule. Accordingly, we have not prepared an RIA.

The Unfunded Mandates Reform Act of 1995 also requires that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in expenditures, in any given year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. We are not preparing an analysis under this Act because this rule is not a major rule as defined at 5 U.S.C. 804(2), nor will it have a significant economic impact on the operations of a substantial number of small providers of health and human services. The proposed rule implements statutory amendments and longstanding Department policy.

We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the rights, roles and responsibilities of States.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

45 CFR Part 80

Civil rights, Discrimination.

45 CFR Part 84

Blind, Civil rights, Discrimination, Handicapped, Individuals with Disabilities.

45 CFR Part 86

Civil rights, Sex discrimination.

45 CFR Parts 90 and 91

Aged, Civil rights, discrimination.

Dated: August 1, 2000.

Thomas E. Perez,

Director, Office for Civil Rights.

Dated: August 2, 2000.

Donna Shalala,

Secretary.

For the reasons discussed in the preamble, the Secretary proposes to amend parts 80, 84, 86, 90, and 91 of title 45 of the Code of Federal Regulations as follows:

PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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

Authority: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1.

§ 80.2 [Amended]

2. Section 80.2 is amended by removing the words "program for which" and adding, in their place, "program to which" and removing the words "assisted programs and activities" and adding, in their place, "financial assistance".

§ 80.3 [Amended]

3. Section 80.3(d) is amended by removing the words "the benefits of a program", and adding, in their place, the word "benefits".

4. Section 80.4 is amended as follows—

A. Removing the words "to carry out a program" in the first sentence of paragraph (a)(1);

B. Removing the words "except a program" and adding, in their place, the words "except an application" in the first sentence of paragraph (a)(1);

C. Removing the words "for each program" and the words "in the program" in the fifth sentence of paragraph (a)(1);

D. Removing the words "State programs" and adding, in their place, the words "Federal financial assistance" in the heading of paragraph (b);

E. Removing the words "to carry out a program involving" and adding, in their place, the word "for" in paragraph (b); and

F. Revising paragraph (d)(2).

The revision of paragraph (d)(2) reads as follows:

§ 80.4 Assurances required.

* * * * *

(d) * * *

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

* * * * *

5. Section 80.5 is amended as follows—

A. Removing the words "under the program" in paragraph (a).

B. Revising paragraph (c); and C. Removing the last sentence of paragraph (e).

The revision of paragraph (c) reads as follows:

§ 80.5 Illustrative application.

* * * * *

(c) In a research, training, demonstration, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited, and the prohibition extends to the entire university.

* * * * *

§ 80.6 [Amended]

6. Section 80.6(b) is amended by removing the words "of any program under" in the last sentence and adding, in their place, the word "in".

§ 80.9 [Amended]

7. Section 80.9(e) is amended by removing the word "programs" in the first sentence and adding, in its place, the words "Federal statutes, authorities, or other means by which Federal financial assistance is extended".

8. Section 80.13 is amended by removing the words "for any program," and "under any such program" in paragraph (i); removing the words "for the purpose of carrying out a program" in paragraph (j); and revising paragraph (g) and revising the authority citation following the section to read as follows:

§ 80.13 Definitions.

* * * * *

(g) The term *program or activity* and the term *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (g)(1), (g)(2), or (g)(3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(Secs. 602, 606, Civil Rights Act of 1964, (42 U.S.C. 2000d–1, 2000d–4a))

9. Appendix A to part 80 is amended by revising the heading of part 1 and the heading of part 2 to read as follows:

Appendix A to Part 80—Federal Financial Assistance to Which These Regulations Apply

Part 1—Assistance Other Than Continuing Assistance to States

* * * * *

Part 2—Continuing Assistance to States

* * * * *

10. The title of part 84 is revised to read as follows:

PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

11. The authority citation for part 84 continues to read as follows:

Authority: 20 U.S.C. 1405; 29 U.S.C. 794; 42 U.S.C. 290dd–2; 21 U.S.C. 1174.

§ 84.2 [Amended]

12. Section 84.2 is amended by removing the word "each" the second time it appears and adding, in its place, the word "the"; and by removing the words "or benefits from".

13. Section 84.3 is amended by redesignating paragraphs (k) and (l) as paragraphs (l) and (m), respectively; and adding a new paragraph (k) and adding an authority citation following this section to read as follows:

§ 84.3 Definitions.

* * * * *

(k) *Program or activity* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(29 U.S.C. 794(b))

§ 84.4 [Amended]

14. Section 84.4 is amended by—

A. Removing the words "or benefits from" in paragraphs (a) and (b)(5);

B. Removing the words "programs or activities" whenever they appear in paragraph (b)(3), and adding, in their place, the words "aids, benefits, or services";

C. Removing the words "or benefiting from" in paragraph (b)(6); and

D. In paragraph (c) removing the word "*Programs*" in the heading and adding, in its place, the words "*Aids, benefits, or services*"; removing the words "from the benefits of a program" and adding, in their place, the words "from aids, benefits, or services", and removing the words "from a program" and adding, in their place, the words "from aids, benefits, or services".

§§ 84.4, 84.6, 84.12, 84.32, 84.33, 84.36 [Amended]

15. Remove the word "program" and add, in its place, the words "program or activity" in the following sections:

A. Section 84.4(b)(1)(v);

B. Section 84.4(b)(4);

C. Section 84.6(a)(3), whenever it appears;

D. Section 84.12(a), (c) introductory text, and (c)(1);

E. Section 84.32;

F. Section 84.33(a); and

G. Section 84.36, in the first sentence.

§ 84.5 [Amended]

16. Section 84.5(a) is amended in the first sentence by removing the words "for a program or activity" and by removing the words "the program" and adding, in their place, the words "the program or activity".

§ 84.8 [Amended]

17. Section 84.8(a) is amended by removing the words "programs and activities" in the second sentence and adding, in their place, the words "programs or activities".

§ 84.11 [Amended]

18. Section 84.11 is amended by—

A. Removing the words "programs assisted" and adding, in their place, the words "programs or activities assisted" in paragraph (a)(2);

B. Removing the word "programs" and revising "apprenticeship" to read "apprenticeships" in the last sentence of paragraph (a)(4).

C. Removing the word "programs" and adding the words "those that are" before "social or recreational" in paragraph (b)(8).

Subpart C—Accessibility

19. The heading of Subpart C is amended by removing the word "PROGRAM".

§ 84.22 [Amended]

20. Section 84.22 is amended in paragraph (a) by removing the words "Program accessibility" in the heading and adding, in their place, the word "Accessibility" and by removing the words "each program or activity to which this part applies so that the program or activity, when viewed in its entirety," in the first sentence and adding in their place, the words "its program or activity so that when each part is viewed in its entirety, it"; in paragraph (b) by removing the words "offer programs and activities to" in the last sentence and adding, in their place, the word "serve"; and in paragraph (e)(3) by removing the words "program accessibility" and adding, in their place,

the words "full accessibility under paragraph (a)".

§ 84.31 [Amended]

21. Section 84.31 is amended by removing the words "or benefit from" whenever they appear; and by removing the words "programs and activities" and adding, in their place, the words "programs or activities".

§ 84.33 [Amended]

22. Section 84.33 is amended by—

A. Removing the words "individualized education program" and adding, in their place, the words "Individualized Education Program" in paragraph (b)(2);

B. Removing the words "in or refer such person to a program other than the one that it operates" and adding, in their place, the words "or refer such a person for aids, benefits, or services other than those that it operates or provides" in the first sentence of paragraph (b)(3);

C. Removing the words "in or refers such person to a program not operated" in the second sentence of paragraph (c)(1), and adding, in their place, the words "or refers such person for aids, benefits, or services not operated or provided";

D. Removing the words "of the program" in the second sentence of paragraph (c)(1) and adding, in their place, the words "of the aids, benefits, or services";

E. Removing the words "in or refers such person to a program not operated" in paragraph (c)(2), and adding, in their place, the words "or refers such person for aids, benefits, or services not operated or provided";

F. Removing the words "from the program" in paragraph (c)(2), and adding, in their place, the words "from the aids, benefits, or services";

G. Removing the words "in the program" in paragraph (c)(2), and adding, in their place, the words "in the aids, benefits, or services";

H. Removing the words "If placement in a public or private residential program" and adding, in their place, the words "If a public or private residential placement" in paragraph (c)(3); and removing the words "the program", and adding, in their place, the words "the placement"; and

I. Removing the words "such a program" in the last sentence of paragraph (c)(4), and adding, in their place, the words "a free appropriate public education".

§ 84.35 [Amended]

23. Section 84.35(a) is amended by removing the words "program shall" and adding, in their place, the words "program or activity shall" and by removing the word "a" before the word "regular" and by removing the word "program" before the word "and".

§ 84.37 [Amended]

24. Section 84.37(c)(1) is amended by removing the words "programs and activities" in the first sentence and adding, in their place, the words "aids, benefits, or services"; and by removing the words "in these activities" in the last sentence.

§ 84.38 [Amended]

25. Section 84.38 is amended by—

A. Removing the word "programs" in the section heading;

B. Removing the words "operates a" and adding, in their place, the word "provides";

C. Removing the words "program or activity or an" after the word "care" and adding, in their place, the word "or";

D. Removing the words " program or activity" after the word "education";

E. Removing the words "from the program or activity";

F. Revising the word "aid" to read "aids"; and

G. Removing the words "under the program or activity".

§ 84.39 [Amended]

26. Section 84.39 is amended by—

A. Removing the word "programs" in the section heading;

B. Removing the words "operates a" and adding, in their place, the word "provides" in paragraph (a);

C. Removing the word "program" after the word "education" in paragraph (a);

D. Removing the words "from such program" in paragraph (a);

E. Removing the words "the recipient's program" in paragraph (a), and adding, in their place, the words "that recipient's program or activity"; and

F. Removing the words "operates special education programs shall operate such programs" in paragraph (c), and adding, in their place, the words "provides special education shall do so".

§ 84.41 [Amended]

27. Section 84.41 is amended by removing the words "programs and activities" whenever they appear in the section and adding, in their place, the words "programs or activities"; and by removing the words "or benefit from" whenever they appear in the section.

§ 84.43 [Amended]

28. Section 84.43 is amended by—

A. Removing the words "program or activity" in paragraph (a) and adding, in their place, the words "aids, benefits, or services"; and

B. Removing the words "programs and activities" in paragraph (d), and adding, in their place, the words "program or activity".

§ 84.44 [Amended]

29. Section 84.44 is amended by—

A. Removing the words "program of" in the second sentence of paragraph (a);

B. Removing the words "in its program" in paragraph (c); and

C. Removing the words "under the education program or activity operated by the recipient" in paragraph (d)(1).

§ 84.47 [Amended]

30. Section 84.47 is amended by removing the words "programs and activities" in paragraph (a)(1), and adding, in their place, the words "aids, benefits, or services".

§ 84.51 [Amended]

31. Section 84.51 is amended by removing the words "or benefit from" whenever they appear in the section; and by removing the word "and" before the word "activities" and adding, in its place, the word "or".

§ 84.54 [Amended]

32. Section 84.54 is amended by removing the words "operates or supervises a program or activity" and adding, in their place, the words "provides aids, benefits, or services".

§ 84.55 [Amended]

33. Section 84.55 is amended by removing the word "programs" in paragraph (a) and adding in its place, the words "programs or activities".

PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

34. The heading for part 86 is revised to read as set forth above.

35. Section 86.2 is amended by—

A. Redesignating paragraphs (h) through (r) as paragraphs (i) through (s), respectively;

B. Adding a new paragraph (h) and revising the authority citation following the section; and

C. Revising newly redesignated paragraph (i) to remove the words "or benefits from".

New paragraph (h) reads as follows:

§ 86.2 Definitions

* * * * *

(h) *Program or activity* and *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other

instrumentality of a State or of a local government; or

(ii) The entity of such a State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

* * * * *

(Secs. 901, 902, 908, Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1687)

* * * * *

§ 86.4 [Amended]

36. Section 86.4 is amended by removing the word "each" and adding, in its place, the word "the" in the first sentence of paragraph (a).

§ 86.6 [Amended]

37. Section 86.6 is amended by removing the words "or benefits from" in paragraph (c).

§ 86.11 [Amended]

38. Section 86.11 is amended by removing the word "each" and adding, in its place, the word "the"; and by removing the words "or benefits from".

39. The titles of Subparts D and E are amended by removing the word "and" and adding, in its place, the word "or".

§ 86.31 [Amended]

40. Section 86.31 is amended by—

A. Removing the word "and" in the section heading, and adding, in its place, the word "or";

B. Removing the words "or benefits from" in the first sentence of paragraph (a); and

C. Removing the words "*Programs not operated*" in the heading of paragraph (d), and adding, in their place, the words "*Aid, benefits, or services not provided*".

§ 86.40 [Amended]

41. Section 86.40 is amended by removing the words "in the normal education program or activity" in paragraph (b)(2); and by removing the words "instructional program in the separate program" in paragraph (b)(3) and adding, in their place, the words "separate portion".

42. Section 86.51 is amended by removing the words "or benefits from" in paragraph (a)(1).

PART 90—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

43. The authority citation for part 90 is revised to read as follows:

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*

§ 90.1 [Amended]

44. Section 90.1 is amended by removing the words "programs and activities" in the last sentence and adding, in their place, the words "programs or activities".

§ 90.3 [Amended]

45. Section 90.3 is amended by removing the word "and" in the section heading and adding, in its place, the word "or".

46. Section 90.4 is amended by adding in alphabetical order a new definition of "Program or activity" and adding an authority citation following the section to read as follows:

§ 90.4 How are the terms in these regulations defined?

* * * * *

Program or activity means all of the operations of—(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition; any part of which is extended Federal financial assistance.

* * * * *

(42 U.S.C. 6107)

§ 90.34 [Amended]

47. Section 90.34 is amended by removing the word "programs" and adding, in its place, the words "programs or activities" whenever they appear in the section.

§ 90.42 [Amended]

48. Section 90.42 is amended by removing the words "programs and activities" in the first sentence of paragraph (a) and adding, in their place, the words "programs or activities".

§ 90.43 [Amended]

49. Section 90.43 is amended by removing the word "program" in the last sentence of paragraph (c)(4).

§ 90.47 [Amended]

50. Section 90.47 is amended by removing the word "Federal" in the first sentence of paragraph (c)(2).

§ 90.48 [Amended]

51. Section 90.48 is amended by removing the words "program or activity" in the last sentence and adding, in their place, the words "Federal financial assistance".

§ 90.49 [Amended]

52. Section 90.49 is amended by removing the word "program" whenever it appears in paragraph (c)

and adding, in its place, the words "program or activity".

PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HHS

53. The heading for part 91 is revised to read as set forth above.

54. The authority citation for part 91 continues to read as follows:

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (45 CFR part 90).

§ 91.1 [Amended]

55. Section 91.1 is amended by removing the words "programs and activities" in the last sentence and adding, in their place, the words "programs or activities".

§ 91.2 [Amended]

56. Section 91.2 is amended by removing the words "programs and activities" in the last sentence and adding, in their place, the words "programs or activities".

§ 91.3 [Amended]

57. Section 91.3 is amended by removing the word "programs" in the section heading and adding, in its place, the words "programs or activities"; and removing the words "or benefits from" in paragraph (a).

58. Section 91.4 is amended by adding in alphabetical order a new definition of "Program or activity" and adding an authority citation following the section to read as follows:

§ 91.4 Definition of terms used in these regulations

* * * * *

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition; any part of which is extended Federal financial assistance.

* * * * *

(Authority: 42 U.S.C. 6107)

§ 91.17 [Amended]

59. Section 91.17 is amended by removing the word "program" whenever it appears and adding, in its place, the words "program or activity".

§ 91.18 [Amended]

60. Section 91.18 is amended by removing the word "program" and adding, in its place, the words "program or activity".

§ 91.31 [Amended]

61. Section 91.31 is amended by removing the words "programs and activities" in the first sentence and adding, in their place, the words "programs or activities".

§ 91.32 [Amended]

62. Section 91.32 is amended by removing the word "program" in paragraph (b).

§ 91.44 [Amended]

63. Section 91.44 is amended by removing the word "program" in paragraph (a)(2).

§ 91.46 [Amended]

64. Section 91.46 is amended by removing the words "program and activity" in the first sentence of paragraph (b) and adding, in their place, the words "program or activity"; and by removing the word "Federal" in the first sentence of paragraph (c)(2).

§ 91.49 [Amended]

65. Section 91.49 is amended by removing the words "program or activity" in paragraph (b)(2) and adding, in their place, the words "Federal financial assistance".

[FR Doc. 00–27306 Filed 10–25–00; 8:45 am]
BILLING CODE 4153–01–P

Notices

Federal Register
Vol. 65, No. 208
Thursday, October 26, 2000

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

Natural Resources Conservation Service

Mission-Lapwai Creek Supplemental Number 2 Watershed Protection Project, Nez Perce County, ID

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Richard Sims, State Conservationist, Natural Resources Conservation Service, 9173 W. Barnes Dr., Suite C, Boise, Idaho 83709–1555, telephone (208) 378–5700.

Notice: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (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 Mission-Lapwai Creek Supplemental Number 2 Watershed Protection Project, Nez Perce County, Idaho.

The Plan/Environmental Assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Richard Sims, State Conservationist, has determined that the preparation and review of an environmental impact statement was not needed for this project.

The Mission-Lapwai Creek Supplement Number 2 Watershed Protection Project consists of a system of land treatment measures designed to protect the resource base, reduce off-site sediment and associated nutrients and bacteria, improve the quality of ground water, and water entering the Clearwater River. Planned treatment practices include: access roads, agrichemical handling facilities, animal trails and walkways, buffers strips, channel vegetation, constructed wetlands, critical area planting, diversions, fencing, field borders, filter strips, fish stream improvement structures, forest site preparation, forest stand improvement, grade stabilization structures, grassed waterways, heavy use area protection, nutrient management, pasture and hayland planting, pest management, ponds, prescribed grazing, range planting, residue management (no-till, mulch-till, direct seeding), riparian forest buffers, rock-lined waterways, runoff management systems, sediment basins, stockwater development, streambank and shoreline protection, stripcropping, structure for water control, subsoiling, terraces, tree and shrub establishment, use exclusion, waste management systems, water and sediment control basins, wildlife upland habitat management, and wildlife wetland habitat management.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the plan/environmental assessment are on file and may be reviewed by contacting Mr. Richard Sims. The FONSI has been sent to 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 address stated on the previous page.

No administrative action on the proposal will be initiated until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: October 17, 2000.

Richard Sims,

State Conservationist.

[FR Doc. 00–27519 Filed 10–25–00; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on November 15, 2000, at the Doubletree Hotel, 424 West Markham, Little Rock, Arkansas 72201. The purpose of the meeting is to plan future projects.

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

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

Dated at Washington, DC, October 20, 2000.

Lisa M. Kelly,

Special Assistant to the Staff Director, Regional Programs Coordination Unit.

[FR Doc. 00–27458 Filed 10–25–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on November 13, 2000, at the Crowne Plaza Hotel, 200 East Amite, Jackson, Mississippi 32901. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting

and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, October 20, 2000.

Lisa M. Kelly,

Special Assistant to the Staff Director, Regional Programs Coordination Unit.

[FR Doc. 00–27459 Filed 10–25–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nebraska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 6:30 p.m. and adjourn at 8:00 p.m. on November 16, 2000, at the Doubletree Hotel, 1616 Dodge, Omaha, Nebraska 68102. The purpose of the meeting is to receive planning input for project development for the next two years.

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

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

Dated at Washington, DC, October 20, 2000.

Lisa M. Kelly,

Special Assistant to the Staff Director, Regional Programs Coordination Unit.

[FR Doc. 00–27460 Filed 10–25–00; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission will convene at 6:30 p.m. and adjourn at 8:00 p.m. on November 30, 2000, at the Student Union Hotel, Oklahoma State University, 242 Student Union, Stillwater, Oklahoma 74075. The purpose of the meeting is to receive planning input for project development for the next two years.

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

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

Dated at Washington, DC, October 20, 2000.

Lisa M. Kelly,

Special Assistant to the Staff Director, Regional Programs Coordination Unit.

[FR Doc. 00–27461 Filed 10–25–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, US Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold a plenary meeting to discuss reports from its water and government resources subcommittees. The ETTAC was created on May 31, 1994, to advise the U.S. government on policies and programs to expand U.S. exports of environmental products and services.

DATES: November 14, 2000.

TIME: 9 am to 3 pm.

PLACE: Room 3407, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The meeting will include a report on progress to date of services negotiations taking place at the World Trade Organization (WTO). ETTAC will also discuss reports prepared by its Government Resources and Water subcommittees.

For further information phone Jane Siegel, Office of Technologies Industries, (ETI), U.S. Department of Commerce at (202) 482–5225. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to ETI.

Carlos F. Montoulieu,

Deputy Assistant Secretary, Acting.

[FR Doc. 00–27503 Filed 10–25–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of Intent to Evaluate

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Texas Coastal Zone Management Program, the South Carolina Coastal Zone Management Program and the Appalachicola Bay National Estuarine Research Reserve in Florida.

The Coastal Zone Management Program evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 923. The National Estuarine Research Reserve evaluation will be conducted pursuant to section 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 921, Subpart E and part 923 Subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves require findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or Reserve's final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The South Carolina Coastal Zone Management Program evaluation site visit will be from December 4–8, 2000. three public meetings will be held during the week. The first will be held on Tuesday, December 5, 2000, from 7 to 9 p.m., at the Technical College of the Lowcountry Auditorium, 921 Ribault Road, Beaufort, South Carolina; the second will be held on Wednesday, December 6, 2000, from 7:00 to 9:00 p.m., at the South Carolina Department of natural Resources Marine Resources Lab, 217 Fort Johnson Road, James Island (Charleston), South Carolina; and, the third will be held on Thursday, December 7, 2000, from 7 to 9 p.m., at the Law Enforcement Center, Court Room A, 1101 Oak Street, Myrtle Beach, South Carolina.

The Texas Coastal Zone Management Program evaluation site visit will be from December 11–15, 2000. One public meeting will be held during the week. The public meeting will be held on Tuesday, December 12, 2000, at 6:30 p.m., at the University of Houston—Clear Lake, 2700 Bay Area Boulevard, Room 3332, Houston, Texas.

The Apalachicola Bay National Estuarine Research Reserve site visit will be from December 4–8, 2000. One public meeting will be held during the week. The public meeting will be held on Wednesday, December 6, 2000, at 6:00 p.m., at the Apalachicola Bay National Estuarine Research Reserve Education Center, 261 7th Street, Apalachicola Bay, Florida.

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Margo E. Jackson, deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 114.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration

Dated: October 24, 2000.

CAPT Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 00–27680 Filed 10–25–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DoD Healthcare Quality Initiative Review Panel

AGENCY: Department of Defense.

ACTION: An executive/administration meeting for DoD Healthcare Quality Initiatives Review Panel has been scheduled for November 9 & 10, 2000.

SUMMARY: This notice set forth the meeting of the DoD Healthcare Quality Initiatives Review Panel. Notice of meeting is required under The Federal Advisory Committee Act.

DATES: November 9 & 10, 2000.

ADDRESSES: Sheraton Crystal City, 1800 Jefferson Davis Hwy, Arlington, VA 22202.

Time: November 9th, 8:00 am to 5:30 pm; November 10th, 8:00 am to 5:30 pm.

FOR FURTHER INFORMATION CONTACT: Gia Edmonds at (703) 933–8325.

Dated: September 20, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27463 Filed 10–25–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Deadline for Submission of Donation Application for the Aircraft Carrier ex-Saratoga (CV–60)

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the deadline of April 17, 2001 for submission of a donation application for the Aircraft Carrier ex-Saratoga (CV–60) under the authority of 10 U.S.C. section 7306. Ex-Saratoga (CV–60) is located at the Naval Inactive Ship Maintenance Facility detachment, Naval Station, Newport, Rhode Island. Eligible recipients include: (1) Any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof; (2) the District of Columbia; or, (3) any not-for-profit or nonprofit entity. Transfer of a vessel under this law shall be made at no cost to the United States. The transferee will be required to maintain the vessel in a condition satisfactory to the Secretary of the Navy as a static museum/memorial. Prospective transferees must submit a comprehensive, detailed application addressing their plans for managing the significant financial, technical, environmental, and curatorial responsibilities that accompany ships donated under this program.

FOR FURTHER INFORMATION CONTACT: Ms. Gloria Carvalho, Navy Ship Donation Program, Program Executive Office for Expeditionary Warfare (PEO EXW), PMS333, Inactive Ship Program Office, Naval Sea Systems Command, 2531 Jefferson Davis Highway, Arlington, VA 22242–5171, telephone number (703) 602–7098.

Dated: October 19, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–27521 Filed 10–25–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, November 16, 2000; 5:30 p.m.–9 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: John D. Sheppard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental

restoration and waste management activities.

Tentative Agenda

5:30 p.m.—Informal Discussion

6:00 p.m.— Call to Order

6:10 p.m.— Approve Minutes

6:20 p.m.— Presentations; Board Response; Public Comments

8:00 p.m.— Subcommittee Reports; Board Response; Public Comments

8:30 p.m.— Administrative Issues

9:00 p.m.— Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8 a.m. and 5 p.m. on Monday thru Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6804.

Issued at Washington, DC on October 23, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–27539 Filed 10–25–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, November 14, 2000, 9:00 a.m. to 6:00 p.m.; Wednesday, November 15, 2000, 9:00 a.m. to 12:00 p.m.

ADDRESSES: Bethesda Ramada Hotel, Embassy III, 8400 Wisconsin Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, Office of Fusion Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: 301–903–4927.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The purpose of the meeting is to complete work on the charge, dated March 24, 2000, to review the draft report prepared by the Integrated Program Planning Activity (IPPA) Working Group. In addition, the Committee will receive and plan for carrying out two new charges, one to review the theory program and one to address issues associated with burning plasma physics.

Tentative Agenda

Tuesday, November 14, 2000

- Address by Dr. Dresselhaus
- Ethics Briefing for New Members
- FY 2001 Budget
- Status of Integrated Program Plan (IPPA) Report
- IPP Brochure
- Discussion of Theory Program Review Charge
- Public Comments
- Adjourn

Wednesday, November 15, 2000

- Discussion of Burning Plasma Physics Charge
- Public Comments
- Adjourn

Public Participation

The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes

We will make the minutes of this meeting available for public review and copying within 30 days at the Freedom of Information Public Reading Room; IE–190; Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 23, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–27540 Filed 10–25–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; Coal Policy Committee of the National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Coal Policy Committee of the National Coal Council. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, November 8, 2000, 1–3 p.m.

ADDRESSES: Crowne Plaza Hotel, McPherson Square Room, 14th & K Streets, NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The purpose of the Coal Policy Committee of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues. The purpose of this meeting is to discuss Federal and State

developments affecting coal and studies the Council might undertake.

Tentative Agenda

- Call to order by Mr. Malcolm Thomas, Chairman, Coal Policy Committee.
- Discussion of current Federal and State developments affecting coal.
- Discussion of possible new studies to be undertaken by the National Coal Council.
- Discussion of other business properly brought before the Coal Policy Committee.
- Public comment—10 minute rule.
- Adjournment.

Public Participation

The meeting is open to the public. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Transcripts

The transcript will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on October 23, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–27538 Filed 10–25–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–5–000]

Algonquin Gas Transmission Company; Notice of Application

October 20, 2000.

Take notice that on October 10, 2000, Algonquin Gas Transmission Company (Algonquin), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP01–5–000 an application pursuant to the provisions of section 7 of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate pipeline facilities for the transportation of natural gas, to establish initial incremental rates for service, and to authorize the leasing of capacity on the proposed facilities and on Algonquin's existing system all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specifically, Algonquin seeks to construct and operate: (1) Approximately 29.4 miles of 24-inch pipeline from an interconnection near Beverly, Massachusetts with the proposed facilities of Maritime & Northeast Pipeline L.L.C. to an interconnection with Algonquin's existing I–9 lateral in Weymouth, Massachusetts; [1] (2) a 5.4 mile 16-inch lateral from milepost 16.3 of the 29.4-mile proposed pipeline to the wastewater treatment plant owned by the Massachusetts Water Resources Authority (MWRA) on Deer Island (Deer Island Lateral); (3) a meter station on the Deer Island Lateral; and (4) other appurtenant facilities. Algonquin states that the proposed facilities will be capable of delivering approximately 230,500 dekatherms (Dth) per day on a year-round basis at an estimated cost of $159 million. Algonquin proposes to place the facilities in service on November 1, 2002.

Algonquin has executed: (1) Precedent agreements with Sithe Power Marketing L.P. (Sithe, 140,000 Dth per day), Southern Energy Kendall L.L.C. (35,000 Dth per day), Southern Connecticut Gas Company (20,000 Dth per day), and Providence Gas Company (500 Dth per day); a letter of a agreement with MWRA (25,000 Dth per day); and a lease agreement with Texas Eastern Transmission Corporation (80,000 Dth per day). The firm service under these various agreements totals 300,500 Dth per day. Of this total, 220,500 Dth per day will transported through the proposed facilities.[2] Algonquin will render this firm transportation service subject to its existing Rate Schedule AFT–1. In addition to the currently effective rates under Rate Schedule AFR–1, Algonquin proposes to establish an incremental reservation surcharge of $1.8607 per Dth for those agreements that specify primary firm delivery points and/or primary firm receipt points between (and including) Beverly and Weymouth. The surcharge is based on the cost of the facilities (exclusive of the Deer Island Lateral) plus the cost of the Fore River lateral facilities approved in Docket No. CP00–34–000. In addition, Algonquin proposes to establish an initial incremental recourse rate for service on the Deer Island Lateral of $10.4366 per Dth that is based solely on the cost of the Deer Island Lateral.

Algonquin seeks authorization to lease 80,000 Dth per day of capacity from Beverly to the existing interconnection between Algonquin and Texas Eastern in Lambertville, New Jersey for a term of 20 years. The fixed monthly lease payment under the Lease Agreement is $559,360. In addition, Texas Eastern will pay a volumetric charge equal to the maximum commodity charge applicable to Rate Schedule AFT–1 per dekatherm delivered at Lambertville. Algonquin states that the monthly lease payment is less than maximum recourse rate and thus meets Commission standards for lease payments.

Algonquin states that the revenues from the proposed incremental charges will allow the construction of the proposed facilities without any subsidization from existing customers, therefore satisfying the Certificate Policy Statement's (Policy Statement) threshold requirement.[3] Algonquin avers that it has made significant efforts to minimize any adverse impacts in accordance with the Policy Statement.

[1] From Beverly, the proposed pipeline will proceed offshore through Beverly Harbor, Salem Sound, Massachusetts Bay, Boston Harbor, Quincy Bay, and Hingham Bay. The last 0.5 mile of pipeline will proceed onshore to the interconnection with the existing Algonquin facilities.

[2] Algonquin's existing agreement with Sithe under Rate Schedule AFT–CL for 70,000 Dth per day of firm service that was approved in Docket No. CP00–34–000 will be converted to an agreement under Rate Schedule AFT–1 for service in this proceeding. The path of this service will be from the interconnection of Algonquin's I and Q system's to Sithe's Fore River generating station in Weymouth.

[3] *See*, 88 FERC ¶ 61,227 (1999), *clarification* 90 FERC ¶ 61,128 (2000), *further clarification* 92 FERC ¶ 61,094 (2000).

Further, Algonquin asserts that its proposal provides significant benefits to its firm shippers and to the public, including: providing service to new electric generation customers and local distribution company shippers that have executed service agreements with Algonquin; providing direct access to a new source of supply for markets behind the Algonquin and Texas Eastern systems; lowering natural gas costs by providing upstream pipeline alternatives; increasing the reliability of the electric generation and transmission grid; and advancing clean air objectives.

Any questions regarding the application should be directed to Steven E. Tillman, Director of Regulatory Affairs, Algonquin Gas Transmission Company, P.O. Box 1642, Houston, Texas 77251–1642 at 713–627–5113.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 2000, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding must file a motion to intervene in accordance with the Commission's rules. Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions of the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit an original and two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure for, unless otherwise advised, it will be unnecessary for Algonquin to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–27486 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–10–000]

Allegheny Power; Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, Allegheny Energy Service Corporation as agent for Monongahela Power Company, The Potomac Edison Company and West Penn Power Company, all doing business as Allegheny Power, filed an RTO Compliance Filing and Petition for Declaratory Order regarding its "PJM West" proposal.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27556 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–74–000]

Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company, GridSouth Transco, L.L.C.; Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, Carolina Power & Light Company, Duke Energy Corporation, and South Carolina Electric & Gas Company (collectively, the Applicants), pursuant to Sections 203 and 205 of the Federal Power Act, jointly filed their Order No. 2000 compliance filing providing for the creation of a Regional Transmission Organization (RTO). The Applicants seek authorization and approval to establish GridSouth Transco, LLC as an RTO.

The Applicants state that they are submitting for approval under FPA Section 205 the terms and conditions of GridSouth's OATT, but are not at this time seeking approval of rates.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27554 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

October 20, 2000.

In the matter of: RT01–3–000, RT01–4–000, RT01–5–000, RT01–6–000, RT01–7–000, RT01–8–000, RT01–9–000, RT01–11–000, RT01–12–000, RT01–13–000, RT01–14–000, RT01–16–000, RT01–17–000, RT01–18–000, RT01–19–000, RT01–20–000, RT01–21–000, RT01–22–000, RT01–23–000, (Not Consolidated); Citizens Communication Company, St. Joseph Light & Power Company, Maine Public Service Company, Western Resources, Inc., and Kansas Gas and Electric Company, Kansas City Power and Light Company, Connexus Energy, Bridger Valley Electric Association, Inc., Dixie-Escalante Rural Electric Association, Inc., Flowell Electric Association, Inc., Moon Lake Electric Association, Inc., and Mt. Wheeler Power, Inc., Baconton Power LLC, Indianapolis Power & Light Company, Duquesne Light Company, Idaho County Light & Power Cooperative Association, Inc., SOWEGA Power LLC, East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc. and Tex-LA Electric Cooperative of Texas, Inc., Intermountain Rural Electric Association, Maine Electric Power Company, Fall River Rural Electric Cooperative, Inc., Valley Electric Association, Inc., Soyland Power Cooperative, Inc., Wolverine Power Supply Cooperative, Inc.

Take notice that between October 12 and October 16, 2000, the entities listed in the caption above made compliance filings pursuant to 18 CFR 35.34(c) and the Commission's Order No. 2000.[1]

Any person desiring to be heard or to protest such filings should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27493 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

October 20, 2000.

In the matter of: RT01–39–000, RT01–40–000, RT01–41–000, RT01–42–000, RT01–43–000, RT01–44–000, RT01–45–000, RT01–46–000, RT01–47–000, RT01–48–000, RT01–49–000, RT01–50–000, RT01–51–000, (Not Consolidated); Concord Electric Company and Exeter & Hampton Electric Light Company, Northwestern Public Service, MidAmerican Energy Company, Rayburn Country Electric Cooperative, Inc., Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company, Arizona Public Service Company, El Paso Electric Company, Public Service Company of Colorado, Public Service Company of New Mexico, Texas-New Mexico Power Company, Tuscon Electric Power Company and, Desert Star, Inc., UtiliCorp United Inc., Consumers Energy Company, Lyon Rural Electric Cooperative, United Power, Inc., White River Electric Association, Inc., Black Hills Corporation, North Central Missouri Electric Cooperative, Inc.

Take notice that on October 16, 2000, the entities listed in the caption above made compliance filings pursuant to 18 CFR 35.34(c) and the Commission's Order No. 2000.[1]

Any person desiring to be heard or to protest such filings should file a motion to intervene, comments, 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 918 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet a http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27547 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *Order on reh'g,* Order No. 2000–A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000).

[1] Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (1999), *order on reh'g,* Order No. 2000-A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. 31,092 (2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

October 20, 2000.

In the matter of: RT01–24–000, RT01–25–000, RT01–26–000, RT01–27–000, RT01–28–000, RT01–29–000, RT01–30–000, RT01–31–000, RT01–32–000, RT01–33–000, RT01–35–000, RT01–36–000, RT01–37–000, RT01–38–000, (Not Consolidated); Edison Mission Energy and Midwest Generation, LLC, Cleco Utility Group, Inc., Northern Indiana Public Service Company, Electric Energy, Inc., Oklahoma Gas and Electric Company, Empire District Company, Florida Keys Electric Cooperative Association, Inc., Inland Power & Light Company, Kandiyohi Cooperative Electric Power Association, Edison Sault Electric Company, Avista Corporation, Bonneville Power Administration, Idaho Power Company, Montana Power Company, Nevada Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company, McDonough Power Cooperative, Dayton Power and Light Company, Montana-Dakota Utilities Company.

Take notice that on October 16, 2000, the entities listed in the caption above made compliance filings pursuant to 18 CFR 35.34(c) and the Commission's Order No. 2000.[1]

Any person desiring to be heard or to protest such filings should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27494 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶31,089 (1999), *order on reh'g*, Order No. 2000–A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶31,092 (2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–1–000]

RTO Informational Filings; Notice of Filing

October 20, 2000.

Take notice that between October 11 and October 18, 2000, the following listed entities tendered for filing voluntary informational filings in response to the Commission's Order No. 2000.[1]

Glacier Electric Cooperative, Inc.; Minnkota Power Cooperative, Inc.; Department of Energy, Southeastern Power Administration; Dairyland Power Cooperative, Great River; Energy, Minnkota Power Cooperative; Rochester Public Utilities and Southern Minnesota Municipal Power Agency; Western Farmers Electric Cooperative; Department of Energy, Southwestern Power Administration; Department of Energy, Western Area Power Administration; Nebraska Public Power District; Southern Illinois Power Cooperative; Sunflower Electric Power Corporation; East Kentucky Power Cooperative, Inc.; Alabama Electric Cooperative, Inc.; Sam Rayburn G&T Electric Cooperative, Inc., Jasper-Newton Electric Cooperative, Inc., and Sam Houston Electric Cooperative, Inc.; Western Farmers Electric Cooperative; Arizona Electric Power Cooperative, Inc.; Tennessee Valley Public Power Association; Basin Electric Power Cooperative; Georgia Transmission Corporation; Oglethorpe Power Corporation; Lincoln Electric System; Corn Belt Power Cooperative, Inc.; Big Rivers Electric Corporation; Tri-State Generation and Transmission Association, Inc.; NB Power Corporation, Nova Scotia Power Incorporated, Maritime Electric Company Limited, and Maine Electric Power Company; Central Electric Power Cooperative, Inc.

Copies of these filings are on file with the Commission and are available for public inspection. These filings may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27495 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶31,089 (1999), *order on reh'g*, Order No. 200–A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶31,092 (2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–67–000]

GridFlorida LLC, Florida Power & Light Co., Florida Power Corporation, Tampa Electric Co., Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company (collectively, the Applicants), pursuant to Sections 203 and 205 of the Federal Power Act, jointly filed their Order No. 2000 compliance filing providing for the creation of a Regional Transmission Organization (RTO). The Applicants propose to form GridFlorida LLC, a for profit transmission company that will act as the RTO for the Florida Reliability Coordinating Council region.

The Applicants explain that, while their Application is complete, implementation details remain to be resolved. The Applicants commit to continue the collaborative process established in Florida to address such details and to make an additional filing on December 15, 2000. At the same time, the Applicants are requesting a ruling from the Commission by December 15, 2000 on certain issues related to the formation of GridFlorida.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public

inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27552 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–14–000]

Mahue Construction Company; Notice of Petition for Declaratory Order

October 20, 2000.

Take notice that on October 17, 2000, Mahue Construction Company (Mahue), P.O. Box 555, 8048 Court Avenue, Hamlin, West Virginia, filed a petition for declaratory order in Docket No. CP01–14–000, requesting that the Commission declare that certain pipeline facilities in Lincoln County, West Virginia to be acquired from Columbia Gas Transmission Corporation (Columbia) would have the primary function of gathering of natural gas and would thereby be exempt from the Commission's jurisdiction pursuant to Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

Mahue states that the pipeline facilities at issue consist of segments of pipeline totaling approximately 5.43 miles in length and ranging from 2 to 12 inches in diameter, and have been used to move gas from wellhead or producer interconnects to Columbia's mainline, or to farm tap customers and town border stations of Mountaineer Gas Company (Mountaineer), a local distribution company. It is stated that Mahue and Columbia have entered into a Purchase and Sale Agreement dated June 14, 2000, in which the parties agreed that the closing of the sale would not occur until the Commission issues Mahue and Columbia authorization needed to effect the sale of assets. It is stated that Columbia will abandon the facilities under its Part 157 Subpart F blanket certificate.

Mahue claims that it will assume the obligation to provide service to Mountaineer pursuant to a negotiated agreement, and Mahue submits that the quality of service that its customers will receive in the future will not be materially different from the service currently received. Mahue states that the primary function of the facilities is gathering, consistent with the criteria set forth in *Farmland Industries, Inc.* (23 FERC ¶ 61,063 (1983), as modified in subsequent orders.

Any questions concerning this application may be directed to Randall S. Rich, of Bracewell & Patterson, L.L.P., at (202) 828–5879.

Any person desiring to be heard or to make protest with reference to said petition should on or before November 13, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules. Beginning November 1, 2000, comments and protests 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.doorbeel.htm.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mahue to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–27485 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–4–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Application

October 20, 2000.

Take notice that on October 10, 2000, Maritimes & Northeast Pipeline, L.L.C. (Maritimes & Northeast), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP01–4–000 an application pursuant to the provisions on section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline facilities for the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specifically, Maritimes & Northeast seeks to construct and operate: (1) Approximately 24 miles of 30-inch pipeline and approximately one mile of 24-inch pipeline from a connection with the existing Maritimes & Northeast system near Methuen, Massachusetts to an interconnection near Beverly, Massachusetts with the proposed facilities of Algonquin Gas Transmission Company's (Algonquin); (2) a meter station in Methuen; (3) a meter station in Beverly; and (4) other appurtenant facilities. Maritimes & Northeast states that the proposed facilities will be capable of providing approximately 360,000 dekatherms per day of firm transportation service at an estimated cost of $133,995,000. Maritimes & Northeast proposes to place the facilities in service on November 1, 2002.

Maritimes & Northeast proposes to provide firm and interruptible transportation service on the new facilities pursuant to its existing rate schedules on file with the Commission and the general terms and conditions of its FERC Gas Tariff. Maritimes & Northeast adds that rates for service to

firm customers are capped at $0.715 per dekatherm on a 100 percent load factor basis for the first five years following the in-service date of the existing mainline. Maritimes & Northeast states that it will add the new Beverly delivery point with Algonquin as an additional primary delivery point in each firm customer's transportation agreement. Maritimes & Northeast asserts that this new delivery point will give its existing customers greater access to Northeastern markets and new operating flexibility and will also increase the reliability of service.

Maritimes & Northeast states that because of the benefits to existing customers along with the five-year rate cap, its proposal satisfies the Certificates Policy Statement's (Policy Statement) threshold requirement that existing customers of a pipeline not subsidize a project.[1] Maritimes & Northeast states that it does not seek to roll in the cost of the new facilities at this time, but may seek to do so in the future. Maritimes & Northeast avers that it has made significant efforts to minimize any adverse impacts in accordance with the Policy Statement. Further, Maritimes & Northeast asserts that its proposal provides significant benefits to its firm shippers and to the public, including: satisfying demand that is not currently being served by the existing pipeline grid; eliminating bottlenecks in the northeastern U.S. pipeline grid; providing direct access to a new source of supply for markets behind the Maritimes & Northeast and Algonquin systems; lowering natural gas costs by providing upstream pipeline alternatives; increasing reliability to the local distribution company and electric generation markets; and advancing clean air objectives.

Any questions regarding the application should be directed to Joseph F. McHugh, Director, Regulatory Affairs, M&N Management Company, 1284 Soldiers Field Road, Boston, Massachusetts 02135 at 617–560–1518.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 2000, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding must file a motion to intervene in accordance with the Commission's rules. Beginning November 1, 2000, comments and protests 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.

Any person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit original and two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provide for, unless otherwise advised, it will be unnecessary for Maritimes & Northeast to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–27487 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 88 FERC ¶ 61,227 (1999), *clarification* 90 FERC ¶ 61,128 (2000), *further clarification* 92 FERC ¶ 61,094 (2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

October 20, 2000.

In the matter of: RT01–52–000, RT01–53–000, RT01–54–000, RT01–55–000, RT01–56–000, RT01–57–000, RT01–58–000, RT01–59–000, RT01–60–000, RT01–61–000, RT01–62–000, RT01–63–000, RT01–64–000, RT01–65–000, RT01–66–000, RT01–68–000, RT01–69–000, RT01–72–000, RT01–73–000, RT01–76–000, (Not Consolidated); Midwest ISO Transmission Owners, Cheyenne Light, Fuel and Power Company, Northern States Power Company (Wisconsin), Public Service Company of Colorado and Southwestern Public Service Company, Platte-Clay Electric Cooperative, Inc., North West Rural Electric Cooperative, Midwest Energy, Inc., Lockhart Power Company, Graham County Electric Cooperative Inc., First Electric Cooperative Corporation, Alcoa Power Generating, Inc., Northern Maine Independent System Administrator, Inc., Wells Rural Electric Company, Otter Tail Power Company, Ohio Valley Electric Corporation, Deseret Generation & Transmission Co-Operative, Inc., Citizens Communication Company, Golden Spread Electric Cooperative, Inc., Wayne-White Counties Electric Cooperative, NewCorp Resources Electric Cooperative, Inc., Oregon Trail Electric Consumers Cooperative, Inc., Northwestern Wisconsin Electric Company.

Take notice that on October 16, 2000, the entities listed in the caption above made compliance filings pursuant to 18 CFR 35.34(c) and the Commission's Order No. 2000.[1]

Any person desiring to be heard or to protest such filings should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the

[1] Regional Transmission Organizations, Order NO. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (1999), *order on reh g*, Order No. 2000–A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. 31,092 (2000).

Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.200(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27548 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–57–000]

MIGC, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 19, 2000.

Take notice that on October 17, 2000, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets which are proposed to be made effective as of November 1, 2000:

Fifth Revised Sheet No. 89
First Revised Title Sheet

MIGC states that this filing is being submitted for general "housekeeping" purposes, specifically, to include in its tariff references to MIGC's Internet website for the name of a contact person familiar with the MIGC tariff and for current information concerning operating personnel and facilities shared by the pipeline and its marketing affiliate. The filing also includes a copy of MIGC's current tariff provisions permitting shipper imbalance trading and netting, to evidence the company's compliance with FERC Order No. 587–L.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–27492 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

October 20, 2000.

In the matter of RT01–78–000, RT01–79–000, RT01–80–000, (Not Consolidated), Minnesota Power, Mt. Carmel Public Utility Company, Sun River Electric Cooperative, Inc.

Take notice that on October 16, 2000, the entities listed in the caption above made compliance filings pursuant to 18 CFR 35.34(c) and the Commission's Order No. 2000.[1]

Any person desiring to be heard or to protest such filings should file a motion to intervene, comments, or protest 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 214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27496 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Regional Transmission Organizations, Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. 31,089 (1999), *order on reh.g,* Order No. 20000–A, 65 FR 12,088 (March 8, 2000); FERC Stats. & Regs. 31,092 (2000).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–2–000]

PJM Interconnection, L.L.C., et al; Notice of Filing

October 20, 2000.

Take notice that on October 11, 2000, pursuant to section 35.34(h) of the Commission's regulations, 18 CFR 35.34(h), and the Commission's July 20, 2000 "Notice of Guidance for Processing Order No. 2000 Filings" in Docket No. RM99–2–000, Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, and UGI Utilities Inc. (collectively, PJM Transmission Owners) and PJM Interconnection. L.L.C. (PJM) jointly submitted an Order No. 2000 compliance filing.[1]

The filing requests that the Commission find that PJM is an RTO in compliance with Order No. 2000, and requests that the Commission accept for filing certain changes to its Tariff and Transmission Owners Agreement. The filing requests an effective date of January 1, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, 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 and Practice and Procedure (18 CFR 385.211 and

[1] Atlantic City Electric Company and Delmarva Power and Light Company do business as Conectiv. Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company do business as GPU Energy.

385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27555 Filed 10–26–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–13–000]

Southern Natural Gas Company; Notice of Application

October 20, 2000.

Take notice that on October 17, 2000, Southern Natural Gas Company (Southern), 1900 Fifth Avenue North, Birmingham, Alabama 35203, filed an application pursuant to and in accordance with section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting a certificate of public convenience and necessity authorizing the reinstatement and the operation of an existing reciprocating engine currently held in standby status at its Albany Compressor Station (Albany C.S.) in Dougherty County, Georgia, all as more fully set forth in the application which is on file with the Commission and open to the public inspection. The application may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222 for assistance). Any questions regarding the application should be directed to: John C. Griffin, Senior Counsel, at (205) 325–7133 or Patrick B. Pope, General Counsel, at (205) 325–7126, Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202–2563.

Due to increases in South Georgia's peak winter and peak summer load, Southern now seeks to reinstate the 1,232 horsepower reciprocating compressor at the existing Albany C.S. from a standby basis to full time availability. Reinstating the engine will provide Southern the flexibility to use the engine when the peak day loads require such usage. Southern is not proposing any increase in Transportation Demand and it has not signed any new firm transportation agreements for incremental service to support this reinstatement. Southern states that the proposed application will enable Southern to operate South Georgia at more stable pressures. Southern contends that the incremental horsepower at Albany will enhance Southern's operational efficiency, flexibility, and reliability without having an impact on its existing customers. Southern states that due to mainline constraints upstream of Albany, such incremental horsepower will not provide any increase in the firm capacity on South Georgia. Southern requests authorization be granted by November 30, 2000, so that the compressor unit may be in service by December 1, 2000 for the winter heating season.

Southern contends that the costs associated with the reinstatement of the facilities are minor costs needed for compliance with the Commission's noise guidelines, that there is only a de minimis financial or rate impact and that the cost of the facilities are already included in the cost of service. The estimated cost associated with the reinstatement is approximately $139,500.00. In addition, these facilities are maintained as though they are fully operational, so there will be no additional maintenance costs associated with the reinstatement. In addition, there will be no impact on other pipelines or landowners. Southern states that since the proposed project is designed to maintain reliability and improve efficiency and flexibility, that it is consistent with the FERC's Policy Statement issued September 15, 1999 in Docket No. PL99–3–000.

Any person desiring to be heard or to make protest with reference to said application should on or before October 30, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Commission and will receive copies of all documents filed by the Applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Southern to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–27557 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–34–000]

Southwest Power Pool, Inc.; Notice of Filing

October 20, 2000.

Take notice that on October 13. 2000, Southwest Power Pool, Inc. (SPP), tendered for filing a request for recognition as a Regional Transmission Organization (RTO). SPP states that the filing includes its Open Access Transmission Tariff revised to meet all of the RTO requirements of Order No. 2000.

The Applicants state that copies of the filing were served on all SPP members and customers, as well as on all state commissions within the region.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27553 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–8–000]

Texas Eastern Transmission Corporation; Notice of Application

October 20, 2000.

Take notice that on October 10, 2000, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP01–8–000 an application pursuant to the provisions of Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the leasing of capacity on Algonquin Gas Transmission Company's (Algonquin) system all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Specially, Texas Eastern seeks authorization to lease 80,000 Dth per day of capacity on Algonquin's system. The leased capacity will extend from the interconnection near Beverly, Massachusetts between Algonquin's proposed facilities in Docket No. CP01–5–000 and the facilities proposed by Maritimes & Northeast Pipeline, L.L.C. (Maritimes & Northeast) in Docket No. CP01–4–000 to the existing interconnection between Texas Eastern and Algonquin in Lambertville, New Jersey. The term of the lease is for 20 years and the lease will commence on November 1, 2002 which coincides with the in-service dates of the proposed Algonquin and Maritimes & Northeast facilities.

The fixed monthly lease payment under the lease agreement is $559,360. In addition, Texas Eastern will pay a volumetric charge equal to the maximum commodity charge applicable to Rate Schedule AFT–1 per dekatherm delivered at Lambertville. Algonquin states that the monthly lease payment is less than the maximum recourse rate and thus meets Commission standards for lease payments. Texas Eastern states that the leased capacity will provide certain firm hourly swing rights. In addition, Texas Eastern states that the capacity rights will further the goals of Order No. 637 by enhancing Texas Eastern's ability to provide imbalance management services on its system and mitigate the need to issue operational flow orders.

Any questions regarding the application should be directed to Steven E. Tillman, Director of Regulatory Affairs, Texas Eastern Transmission Corporation, P.O. Box 1642, Houston, Texas 77251–1642 at 713–627–5113.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 2000, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding must file a motion to intervene in accordance with the Commission's rules. Beginning November 1, 2000, comments and protests 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit original and two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or to be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–27488 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–56–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 20, 2000.

Take notice that on October 17, 2000, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective December 1, 2000:

Fourth Revised Sheet No. 18
Seventeenth Revised Sheet No. 48
Original Sheet No. 98
Sheet No. 99
First Revised Sheet No. 157
Original Sheet No. 158

Transwestern states that the purpose of this filing is to provide Transwestern and its firm Shippers with the ability to enter into options to call on firm transportation capacity at a specified future date and options to terminate all or a portion of an existing service agreement at a specified future date.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–27491 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–15–000]

Avista Corporation, The Montana Power Company, Nevada Power Company, Portland General Electric Company, Puget Sound Energy, Inc., Sierra Pacific Power Company; Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, the above-captioned companies (collectively Applicants) tendered a filing in compliance with Order No. 2000 and a petition for declaratory order pursuant to section 35.34(d) of the Federal Energy Regulatory Commission's (Commission's) regulations and rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 35.34(d) and 207(a)(2)(2000).

Applicants request the Commission to find that if they form an independent transmission company (ITC) consistent with the ITC described in the filing, that the subject ITC would be considered independent and would be permitted to share certain functions with the regional transmission organization Applicants will seek to join.

Any person desiring to be heard or protest such filing should file a motion to intervene, comments, or protests with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27549 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2396–003, et al.]

Energetix, Inc., et al., Electric Rate and Corporate Regulation Filings

October 17, 2000.

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

1. Energetix, Inc.

[Docket No. ER00–2396–003]

Take notice that on October 12, 2000, in compliance with the Commission's letter order issued September 12, 2000 in the above-referenced proceeding, Energetix, Inc. tendered for filing with the Commission revisions to the tariff designations of its market-based rate tariff, FERC Electric Tariff, Original Volume No. 1, and its Code of Conduct.

Comment date: November 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Dominion Nuclear Marketing II, Inc.

[Docket No. ER00–3619–001]

Take notice that on October 12, 2000, Dominion Nuclear Marketing II, Inc., tendered for filing its proposed FERC Market-Based Sales Tariff and requested certain waivers of the Commission's regulations. On October 12, 2000, at the request of the Commission's Staff, DNM II resubmitted its FERC Market-Based Sales Tariff to assure compliance with the Commission's policy regarding the provision of ancillary services at market-based rates and also resubmitted its Code of Conduct for Officers and Employees of Dominion Nuclear Marketing II, Inc., to assure compliance with the Commission's pagination guidelines. Also as part of DNM II's filing, the issue date of its tariff sheets was changed to October 12, 2000.

Comment date: November 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Dominion Nuclear Marketing I, Inc.

[Docket No. ER00–3620–001]

Take notice that on October 12, 2000, Dominion Nuclear Marketing I, Inc., tendered for filing its proposed FERC Market-Based Sales Tariff and requested certain waivers of the Commission's regulations. On October 12, 2000, at the request of the Commission's Staff, DNM I resubmitted its FERC Market-Based Sales Tariff to assure compliance with the Commission's policy regarding the provision of ancillary services at market-based rates and also resubmitted its Code of Conduct for Officers and Employees of Dominion Nuclear Marketing I, Inc., to assure compliance with the Commission's pagination guidelines. Also as part of DNM I's filing, the issue date of its tariff sheets was changed to October 12, 2000.

Comment date: November 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Dominion Nuclear Connecticut, Inc.

[Docket No. ER00–3621–001]

Take notice that on October 12, 2000, Dominion Nuclear Connecticut, Inc., tendered for filing its proposed FERC Market-Based Sales Tariff and requested certain waivers of the Commission's regulations. On October 12, 2000, at the request of the Commission's Staff, DNC resubmitted its FERC Market-Based Sales Tariff to assure compliance with the Commission's policy regarding the provision of ancillary services at market-based rates and also resubmitted its Code of Conduct for Officers and Employees of Dominion Nuclear Connecticut, Inc., to assure compliance with the Commission's pagination guidelines. Also as part of DNC's filing, the issue date of its tariff sheets was changed to October 12, 2000.

Comment date: November 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Quixx Linden, L.P.

[Docket No. QF98–3–001]

Take notice that on October 10, 2000, Quixx Linden, L.P. (Applicant) filed a petition with the Federal Energy Regulatory Commission (Commission) for a temporary waiver of the efficiency standard for cogeneration facilities for calendar years 1999 and 2000 (and the first 12 months of operation) for its facility in Linden, New Jersey, pursuant to Section 292.205(c) of the Commission's regulations.

The waiver being requested is for the start-up and testing period for Applicant's facility. The facility supplies steam, compressed air, demineralized water, and electric power to the General Motors Linden Assembly Plant. Applicant also sells a small amount of electric power on the Pennsylvania-New Jersey-Maryland Power Exchange.

Comment date: November 9, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ES01–4–000]

Take notice that on October 10, 2000, UtiliCorp United Inc. submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue long-term debt securities, from time to time, in an amount not to exceed $500 million.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests 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.*

David P. Boergers,

Secretary.

[FR Doc. 00–27497 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–75–000]

Entergy Services, Inc., on Behalf of the Entergy Operating Companies, et al.; Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, Entergy Services, Inc., on behalf of the Entergy Operating Companies: Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. tendered for filing pursuant to FPA sections 203 and 205 an Application for Approval of a Regional Transmission Organization and Approval of the Transfer of Transmission Assets to a Regional Transmission Organization (the Application). The Application states that it is the first phase of Entergy's compliance with Order No. 2000.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protests with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via

the internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27550 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–77–000]

Southern Company Services, Inc.; Notice of Filing

October 20, 2000.

Take notice that on October 16, 2000, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), filed a Petition for Declaratory Order in compliance with the Commission's Order No. 2000. In their Petition, Southern Companies proposed the formation of a Gridco that would be a Regional Transmission Organization. Southern Companies also proposed a ratemaking approach for the Gridco.

Any person desiring to be heard or to protest such filing should file a motion to intervene, comments, or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions, comments and protests should be filed on or before November 20, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–27551 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–452–000]

Colorado Interstate Gas Company; Notice of Intent to Prepare an Environmental Assessment for the Proposed Raton Basin Expansion Project and Request for Comments on Environmental Issues

October 20, 2000.

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 Raton Basin Expansion Project involving construction and operation of facilities by Colorado Interstate Gas Company (CIG) in Baca and Las Animas Counties, Colorado; Cimarron, Texas, and Beaver Counties, Oklahoma; and Morton County, Kansas.[1] These facilities would consist of about 70 miles of various diameter pipeline and 18,050 horsepower (hp) of compression. 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.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice CIG provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

CIG wants to expand the capacity of its facilities in Colorado, Oklahoma, and Kansas to transport an additional 85,000 Decatherms per day of natural gas in order to increase capacity to points east and south of CIG's Campo Regulator Station. CIG seeks authority to construct and operate the following:

- 21.4 miles of 8-inch-diameter pipeline loop of 3C Keyes to Campo Loop in Cimarron County, Oklahoma and Baca County, Colorado;
- 48.1 miles of 20-inch-diameter loop of 11B Morton to Hooker Loop in Morton County, Kansas and Texas County, Oklahoma;
- New 4,700 hp Trinidad Compressor Station in Las Animas County, Colorado;
- New 8,900 hp Kim Compressor Station in Las Animas County, Colorado;
- Additional 4,450 hp compressor unit at the existing Keyes Compressor Station in Cimarron County, Oklahoma;
- Recylindering of the compressors at the Beaver County Compressor Station in Beaver County, Oklahoma; and
- Facilities for blending of low and high BTU gas within the existing Campo Regulator Station yard in Baca County, Colorado.

The location of the project facilities is show in appendix 1.

Land Requirements for Construction

Construction of the proposed facilities would require about 802 acres of land. About 95 percent of the project would be within 50 feet of existing pipelines. Following construction, about 429.0 acres would be maintained as permanent pipeline right-of-way and about 21.5 acres would be maintained as new aboveground facility sites. The remaining 351.5 acres of land would be restored and allowed to revert to its former use.

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

[1] CIG's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

public may have about proposals. We call this "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.
- Endangered and threatened species.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

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 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 CIG. This preliminary list of issues may be changed based on your comments and our analysis.

- Eight federally listed endangered or threatened species may occur in the proposed project area.
- The project would cross 14 waterbodies and 8 wetlands.
- The project would cross about 32.7 acres of Comanche National Grasslands, and about 73.2 acres of Cimarron National Grasslands.
- The project would cross the Santa Fe National Historic Trail.
- The pipeline facilities would disturb about 322.2 acres of agricultural land.

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 (including alternative locations/routes), 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 original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 2.
- Reference Docket No. CP00–452–000.
- Mail your comments so that they will be received in Washington, DC on or before November 20, 2000.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list. Beginning November 1, 2000, comments and protests 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.

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 385.214) (see appendix 2). 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.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–0004 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–27489 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

October 20, 2000.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. Type of filing: Notice of Intent to File an Application for New License.

b. Project No: 2114–000.

c. Date filed: September 28, 2000.

d. Submitted By: Public Utility District No. 2 of Grant County, Washington.

e. Name of Project: Priest Rapids Hydroelectric Project.

f. Location: On the Columbia River, in Grant, Yakima, Kittitas, Douglas, Benton and Chelan Counties, Washington. The project does not occupy Federal lands.

g. Filed Pursuant to: Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to section 16.19 of the Commission's regulations, the licensee is required to make available the information described in section 16.7 of the regulations. Such information is available from the licensee at Public Utility District No. 2 of Grant County, Washington, P.O. Box 878, 30 C Street, SW. Contact Mona Kaiser at 509–754–5017 or email: mkaiser@gcpud.org

i. FERC Contact: Charles Hall, (202) 219–2853, *Charles.Hall@ferc.fed.us*

j. Expiration Date of Current License: October 31, 2005.

k. Project Description: The project consists of two existing developments: Wanapum and Priest Rapids. Each development includes a dam, reservoir, spillway structures, powerhouse integral with the dam, generators, turbines and other project lands and structures useful in the operation of the project and all appropriative, riparian, and other rights. Priest Rapids and Wanapum each have 10 turbine generators with capacities of 855,600 kilowatts (kW) and 900,000 kW, respectively, for an authorized total installed capacity of 1,755,000 kW.

l. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2114. Pursuant to 18 CFR 16.9(b)(1) each application for a new 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 October 31, 2003.

m. A copy of the notice of intent is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The notice may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 00–27490 Filed 10–25–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

October 20, 2000.

This constitutes notice, in accordance with 18 CFR 385.220(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. Project No. 459–109, 10/6/00, Mohamad Fayyad
2. CP00–232–000, 10/4/00, John T. Pierpont
3. Project Nos. 20–019, 2401–007 and 472–017, 10/3/00, The Honorable Make Crapo
4. Project No. 2142–031, 10/11/00, Jeff Reardon
5. CP00–40–002, 10/12/00, Michael A. Gato
6. CP00–14–000, et al, 10/16/00, John J. Wisniewski, FERC
7. CP00–6–000, 10/16/00, Jeff Shenot, FERC
8. CP00–6–000, 10/17/00, George Henderson
9. CP00–14–000, 10/17/00, John A. Ryan
10. CP00–14–000, 10/17/00, Joel A. Ivey
11. CP00–14–000, 10/17/00, Marthalee S. Beneduci and Alfred Beneduci
12. CP00–14–000, 10/17/00, William E. Moran
13. Project No. 1927–008, 10/18/00, Doug Hieken
14. CP00–36–000, 10/19/00, James R. Hartwig
15. CP00–36–000, 10/18/00, Laura de la Flor
16. Project No. 77–110, 10/19/00, Don L. Klima
17. CP00–232–000, 10/18/00, Betty Pryor
18. Project Nos. 10865 and 11495, 10/19/00, Don L. Klima
19. CP00–232–000, 10/18/00, John T. Pierpont
20. CP00–65–000, 10/20/00, David Densmore

Prohibited

1. CP99–579–000, *et al.*, 10/11/00, Karen Burrows

David P. Boergers,

Secretary.

[FR Doc. 00–27484 Filed 10–25–00; 8:45 am]

BILLING CODE 6710–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6892–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; EPA Landfill Methane Outreach Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information

Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: The Landfill Methane Outreach Program, ICR Number 1849.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 27, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1849.01 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; and to, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1849.01. For technical questions about the ICR contact Cindy Jacobs at (202) 564–1129.

SUPPLEMENTARY INFORMATION: *Title:* EPA Landfill Methane Outreach Program (EPA ICR No. 1849.01). This is a new collection.

Abstract: The Landfill Methane Outreach Program (LMOP) is an EPA-sponsored voluntary program that encourages landfill owners, communities, and project developers to implement methane recovery technologies to utilize the methane as a source of fuel and to reduce emissions of methane, a potent greenhouse gas. The Landfill Methane Outreach Program further encourages utilities and other energy customers to support and promote the use of landfill methane at their facilities. The Landfill Methane Outreach Program signs voluntary Memoranda of Understanding (MOU) with these organizations to enlist their support in promoting cost-effective landfill gas utilization. The information collection includes one-time completion and submission of the MOU, and one-time and periodic completion and submission of information forms that include basic information on the organizations that sign the MOU and landfill methane projects in which they are involved. The primary purpose of the information collection is to evaluate the success of the LMOP in reducing methane emissions from landfills. Responses to the information collection are voluntary. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 2/14/2000 (65 FR 7390); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.8 hours per year per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Local agencies and municipalities that own landfills, State agencies, Manufacturers and suppliers of equipment/knowledge to capture and utilize landfill gas, utility companies, End users of energy from the landfill.

Estimated Number of Respondents: 310 (average over 3 years).

Frequency of Response: Annually and on occasion.

Estimated Total Annual Hour Burden: 1,484 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $670.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1849.01 in any correspondence.

Dated: October 15, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–27579 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6890–9; MM–HQ–2001–0004]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity to Comment Regarding AT&T Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with AT&T Corp. to resolve violations of the Clean Water Act ("CWA"), and its implementing regulations. AT&T Corp. failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for twenty-four facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order.

DATES: Comments are due on or before November 27, 2000.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2000–011, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov.* Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–5029; fax: (202) 564–0010; e-mail: milton.philip@epa.gov.

SUPPLEMENTARY INFORMATION: Electronic Copies: Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

AT&T Corp., a telecommunications company incorporated in the State of New York and located at 32 Avenue of the Americas, New York, New York 10013–2412 failed to prepare SPCC plans for twenty-four facilities. AT&T Corp. disclosed, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' ("Audit Policy"), 60 FR 66,706 (December 22, 1995), that they failed to prepare SPCC plans for twenty-four facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR part 112. EPA determined that AT&T Corp. met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($137,500.00) and proposed a settlement penalty amount of ($24,078.00). This is the amount of the economic benefit gained by AT&T Corp., attributable to their delayed compliance with the SPCC regulations. AT&T Corp. has agreed to pay this amount in civil penalties. EPA and AT&T Corp. negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR section 22.13, on October 19, 2000 (*In Re: AT&T Corp.*, Docket No. MM–HQ–2001–0004). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. section 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 27, 2000. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: October 19, 2000.

David A. Nielsen,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 00–27581 Filed 10–25–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–00–38–A (Auction No. 38); DA 00–2291]

Auction Of Licenses for the 700 MHz Guard Bands Scheduled for February 13, 2001; Comment Sought On Reserve Prices Or Minimum Opening Bids and Other Auction Procedural Issues: Correction

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Communications Commission (Commission) published in the **Federal Register** of October 24, 2000, a document announcing the auction of eight Guard Band Manager licenses ("Auction No. 38") in the 700 MHz Guard Bands to commence on February 13, 2001. This auction will include the licenses that remained unsold in Auction No. 33, which closed on September 21, 2000. This document corrects the comment and reply comment dates of the document published on October 24, 2000.

DATES: Comments are due on or before October 27, 2000, and reply comments are due on or before November 3, 2000.

ADDRESSES: An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Howard Davenport, Auctions Attorney, or Craig Bomberger, Auctions Analyst, at (202) 418–0660; or Linda Sanderson, Project Manager, at (717) 338–2888.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 24, 2000 (65 FR 63584), the Commission published a summary of its Public Notice regarding Auction No. 38 and sought comment on several issues relating to the auction. The document however, was published with incorrect comment and reply comment dates.

In rule FR Doc. 00–27409 published on October 24, 2000 (65 FR 63584) make the following corrections.

(1) On page 63585 in the **DATES** caption, change the comment date to read "October 27, 2000".

(2) On page 63585 in the **DATES** caption, change the reply comment date to read "November 3, 2000".

Federal Communications Commission.

Margaret Wiener,

Deputy Chief, Auctions and Industry Analysis Division.

[FR Doc. 00–27679 Filed 10–25–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

CANCELLATION OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, October 17, 2000. Meeting closed to the public.

* * * * *

DATE & TIME: Tuesday, October 31, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, November 2, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2000–24; Alaska Democratic Party by counsel, Neil Reiff.

Statements of Reasons—Requests to Deny Certification of Public Funds to Patrick J. Buchanan and Ezola Foster (LRA#598/599).

Notice of Disposition of Petition for Rulemaking Filed by the Project on Government Oversight.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–27654 Filed 10–24–00; 11:49 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Time and Date: November 28, 2000—9 a.m.–5 p.m. EDT.

November 29, 2000—10:15 a.m.–3:30 p.m. EDT.

Place: Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the first day an update from HHS has been scheduled on the implementation of the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee will be briefed by the Director of the National Center for Health Statistics on several health data activities. In addition, there may be a discussion of a possible draft letter to the HHS Secretary regarding digital signatures. The Committee will also discuss action items reported in the summary from its 50th Anniversary Symposium held earlier in the year. There will also be a report on two recent meetings of the World Health Organization's (WHO) collaborating Center for the Classification of Diseases. A panel discussion has been scheduled on HIPAA implementation issues. The first day will end with breakout sessions for subcommittees and workgroups. Day two will also begin with breakout sessions and then the full committee will be briefed on selected HHS data policy initiatives and will hear an analysis of State privacy laws. The afternoon session will be devoted to hearing reports from the subcommittees and workgroups and the setting of future agendas.

Notice: In the interest of security, HHS has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Persons without a government identification card may need to have the guard call for an escort to the meeting.

Contact Person for Core Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where further information including an agenda will be posted when available.

Dated: October 18, 2000.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 00–27462 Filed 10–25–00; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1268]

Agency Information Collection Activities; Announcement of OMB Approval; Food Additives and Food Additive Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Food Additives and Food Additive Petitions" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 3, 2000 (65 FR 47736), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0016. The approval expires on October 31, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: October 20, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27546 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1373]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reporting and Recordkeeping Requirements for Mammography Facilities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by November 27, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Reporting and Recordkeeping Requirements for Mammography Facilities—21 CFR Part 900 (OMB Control Number 0910–0309)—Extension

Public Law 102–539, the Mammography Quality Standards Act of 1992 (MQSA) (42 U.S.C. 263b) as amended by the Mammography Quality Standards Reauthorization Act (MQSRA) of 1998 (Public Law 105–248) establishes the authority for a Federal certification and inspection program for mammography facilities; regulations and standards for accreditation bodies for mammography facilities; and standards for mammography equipment, personnel, and practices, including quality assurance. MQSRA extended the life of the MQSA program for 4 years from its original expiration date of 1998 until 2002, and also modified some of the provisions. The most significant modification from a report and recordkeeping viewpoint under 21 CFR 900.12(c)(2) was that mammography facilities were required to send a lay summary of each examination to the patient.

FDA, under this regulation, collects information from accreditation bodies and mammography facilities by requiring each accreditation body to submit an application for approval and to establish a quality assurance program. On the basis of accreditation, facilities are certified by FDA and must prominently display their certificate. FDA uses the information to ensure that private, nonprofit organizations or State agencies meet the standards established by FDA for accreditation bodies to accredit facilities that provide mammography services. Information collected from mammography facilities has also been used to ensure that the personnel, equipment, and quality systems has and continues to meet the regulations under MQSA and will be used by patients to manage their health care properly. The intent of these regulations is to assure safe, reliable, and accurate mammography on a nationwide level. The most likely respondents to this information collection will be accreditation bodies and mammography facilities seeking certification.

In the **Federal Register** of July 17, 2000 (65 FR 44061), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours	Total Capital Costs	Total Operating and Maintenance Costs
900.3	6	1	6	60	360		
900.3(b)(3)	10	1	10	60	600	$50	
900.3(c)	4	0.14	0.56	15	8.4		
900.3(e)	1	0.2	0.2	1	0.2		
900.3(f)(2)	1	0.2	0.2	1	0.2		
900.4(c)	834	1	834	1	834		
900.4(e)	10,000	1	10,000	8	80,000		
900.4(f)	1,000	1	1,000	14.5	14,500		
900.4(h)	6	1	750	6	4,500		
900.4(i)(2)	1	1	1	1	1		
900.6(c)(1)	1	1	1	1	1		
900.11(b)(2)	25	1	25	2	50		
900.11(b)(3)	5	1	5	0.5	2.5		
900.11(c)	10,000	0.0050	50	20	1,000		$1,000
900.12(c)(2)	9,800	4,080	39,984,000	5 minutes	3,332,000		
900.12(j)(1)	10	1	10	1	10		
900.15(d)(3)(ii)	10,000	0.0020	20	2	40		$100
900.18(c)	10,000	0.0005	6	2	12		$60
900.18(e)	10	0.1000	1	1	1		$10
Total					3,434,010	$50,	$1,170

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Operating and Maintenance Costs
900.3(f)(1)	10	130	1,300	200	2,000	
900.4(g)	10,000	1	10,000	1	10,000	
900.11(b)(1)	1,000	1	1,000	1	1,000	
900.12(c)(4)	10,000	1	10,000	1	10,000	
900.12(e)(13)	6,000	52	312,000	0.125	39,000	
900.12(f)	10,000	1	10,000	1	10,000	
900.12(h)	10,000	2	20,000	0.5	10,000	$20,000
Total					82,000	$20,000

[1]There are no capital costs associated with this collection of information.

All costs of implementing requirements for certification of mammography facilities will be borne by accreditation bodies; the incremental costs that accreditation bodies will face are not expected to be significant. The collection's burden is based upon the estimated number of summaries received by FDA, which in turn is based

on the estimated number of examinations expected to be performed in a given year. If mammography examinations increase in number in subsequent years, which is expected for at least the foreseeable future, the annual burden and costs to meet this requirement will increase.

Included in the burden estimate is the FDA estimate for mammography lay summaries, which is the practice of notifying the patient in layman's terms of the results of the patient's mammography examination. FDA estimates that there are 9,800 facilities performing mammography in the United States. FDA also estimates that those facilities perform a total of 40 million mammography examinations in a year. In 90 percent of these cases, the notification to the patient can be established by a brief standardized letter to the patient. FDA estimates that preparing and sending this letter will take approximately 5 minutes. In the 10 percent of the cases in which there is a finding of "Suspicious" or "Highly suggestive of malignancy," the facility is required to make reasonable attempts to ensure that the results are communicated to the patients as soon as possible. FDA believes that this requirement can be met by a 5-minute call from the health professional to the patient.

Dated: October 19, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27453 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Biological Response Modifiers Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Biological Response Modifiers Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 16 and 17, 2000, 8:30 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Gail M. Dapolito or Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12389. Please call the Information Line for up-to-date information on this meeting.

Agenda: On November 16 and 17, 2000, the committee will meet to discuss the following issues related to gene therapy clinical trials: (1) Product characterization, (2) preclinical models, and (3) long term followup.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 9, 2000. Oral presentations from the public will be scheduled between approximately 1 p.m. and 1:30 p.m. on November 16, 2000, and from 9 a.m. to 9:30 a.m. on November 17, 2000. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 9, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 18, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–27455 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 17, 2000, 8:30 a.m. to 5 p.m.

Location: Food and Drug Administration, CDER Advisory Committee Meeting Room, 5630 Fishers Lane, Rockville, MD 20857.

Contact Person: Susan Mackie Bond, Office of Science Coordination and Communication (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12603. Please call the Information Line for up-to-date information on this meeting.

Agenda: The board will meet to hear and to discuss the following issues: (1) Emerging science issues at FDA, (2) strategies for maintaining quality of science at FDA, and (3) programmatic peer review.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 7, 2000. Oral presentations from the public will be scheduled between approximately 1 p.m. to 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 7, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 18, 2000.

Linda S. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–27456 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1537]

Draft Guidance for Industry on Referencing Discontinued Labeling for Listed Drugs in Abbreviated New Drug Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Referencing Discontinued Labeling for Listed Drugs in Abbreviated New Drug Applications." This document is intended to provide guidance to applicants on referencing discontinued labeling for listed drugs in abbreviated new drug applications (ANDA's) submitted for approval under the Federal Food, Drug, and Cosmetic Act (the act). This issue has only recently arisen and is not addressed directly in the agency's regulations governing the approvals of ANDA's.

DATES: Submit written comments on the draft guidance by January 24, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cecelia M. Parise, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5845.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (the Hatch-Waxman amendments) established the generic drug approval program used today to ensure that lower price generic drugs are made available to the public promptly upon the expiration of patent and exclusivity protections covering the innovator products. The generic drug approval process generally depends on the ANDA applicant establishing that the generic drug is the same as an approved innovator product (the listed drug) with respect to active ingredients, dosage form, strength, route of administration, conditions of use, and labeling.

During the period when an innovator drug is being marketed, it may undergo a number of changes that are approved through supplements to new drug applications (NDA's). Such changes can include the addition of new indications, changes to the product formulation, and labeling changes. In the past, when ANDA's have been submitted, they have referenced only the innovator drug product labeling as it appeared at the time of ANDA submission. However, recently a question has been raised as to whether, in certain circumstances, an ANDA can refer to discontinued labeling for the listed drug. The issue of referencing discontinued labeling arises when the sponsor of the listed drug product has obtained exclusivity or patent protection for a new part of product labeling and has removed a part of the previous labeling, unprotected by exclusivity or patents, for reasons other than safety or effectiveness. When the holder of the listed drug obtains approval and market protection for a change to the drug and removes the corresponding unprotected information from the current labeling, there remains no current labeling for the ANDA applicant to reference. This raises the question of whether applicants will be barred from obtaining approval for any ANDA referencing that listed drug until the protection for the particular aspect of the labeling expires, because relevant labeling is either protected or has been removed from the currently marketed product.

FDA has developed an approach to this situation that ensures that labeling removed from a drug product for reasons of safety or effectiveness cannot be referenced in an ANDA, while at the same time permitting approval of generic drugs that reference discontinued labeling for safe and effective innovator products. This approach ensures that safe and effective generic drug products are made available to the public as promptly as possible when relevant market protections have expired.

An ANDA will be permitted to reference discontinued labeling for a listed drug when: (1) The holder of the NDA for the innovator drug has obtained approval for a change in the drug labeling; (2) the change has received either a patent listed in "Approved Drug Products with Therapeutic Equivalence Evaluations" (the Orange Book) or market exclusivity under the act; (3) the NDA sponsor has removed or revised the labeling describing the corresponding unprotected aspects of the drug; (4) the change to the drug product is not one for which a suitability petition may be filed (21 CFR 314.93); (5) the sponsor wishing to reference the discontinued labeling has submitted a petition requesting that the agency determine whether the previous labeling was withdrawn for reasons of safety or effectiveness, or the agency on its own initiative, begins the process of determining the reasons for the withdrawal of the previous labeling; (6) the agency has determined that the previous innovator labeling was not withdrawn for reasons of safety or effectiveness; and (7) the agency has determined that omission of the protected information will not render the drug product less safe or effective than the currently marketed innovator product.

The draft guidance identifies the provisions of the act and FDA regulations relevant to this issue, and provides a detailed description of the process an ANDA applicant should follow to refer to discontinued labeling for a listed drug. It also describes the actions FDA will take to determine whether the use of such labeling is acceptable because the labeling was not withdrawn from the market for reasons of safety or effectiveness.

This draft guidance is being issued consistent with FDA's good guidance practices (65 FR 56468, September 19, 2000). The draft guidance represents the agency's current thinking on referencing discontinued labeling for listed drugs in ANDA's. 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.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft 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 draft 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.

Dated: October 13, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27452 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0282]

Revised Guidance for Industry on Submitting and Reviewing Complete Responses to Clinical Holds; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry entitled "Submitting and Reviewing Complete Responses to Clinical Holds." This guidance describes how to submit a complete response if an investigational new drug (IND) application is placed on clinical hold. The revised guidance reflects amendments to FDA's clinical hold regulations, includes the definition of a commercial IND, and discusses the agency's policy on resolving clinical trial issues that are not related to the imposition of a clinical hold.

DATES: Comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm; or http://www.fda.gov/cber/guidelines.htm. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Linda S. Carter (HFD–101), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6578; or Robert A. Yetter (HFM–10), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a revised guidance for industry entitled "Submitting and Reviewing Complete Responses to Clinical Holds." Section 117 of the Food and Drug Administration Modernization Act of 1997 (Modernization Act), signed into law by President Clinton on November 21, 1997, provides that a written request that a clinical hold be removed shall receive a decision in writing, specifying the reasons for that decision, within 30 days after receipt of such request. Section 117(3)(c) of the Modernization Act is codified in the Federal Food, Drug, and Cosmetic Act at section 505(i)(3)(c) (21 U.S.C. 355(i)(3)(c)). In addition, the agency committed to user fee performance goals incorporating the same response time. In the **Federal Register** of December 14, 1998 (63 FR 68676), FDA amended its clinical hold regulations in § 312.42(e) (21 CFR 312.42(e)) to include this 30-day response requirement. This guidance describes how sponsors should submit responses to clinical holds so that they may be identified as complete responses and the agency can track the time to response.

In the **Federal Register** of May 14, 1998 (63 FR 26809), FDA published a notice announcing the availability of the original guidance and soliciting comments. Two comments on the guidance were submitted to the docket. After considering the comments, FDA is issuing a revised guidance.

The revised guidance: (1) Reflects amendments to FDA's clinical hold regulations, stating that FDA will respond in writing within 30-calendar days of receipt of a sponsor's request to release a clinical hold and complete response to the issue(s) that led to the clinical hold (§ 312.42(e)); (2) includes the definition of a commercial IND and clarifies that the Prescription Drug User Fee Act goals apply only to commercial IND's, although the 30-calendar day response applies to all IND clinical hold complete responses; and (3) states that clinical trial issues that are not related to the imposition of a clinical hold may be discussed in the letter placing the trial on clinical hold, but will be clearly marked as nonhold issues and that a sponsor's response to such nonhold issues should be addressed in a separate amendment to the IND.

The collection of information contained in the revised guidance has been approved by the Office of Management and Budget under OMB control number 0910–0445.

This revised guidance document supersedes the original guidance. This Level 1 guidance document is being issued consistent with FDA's good guidance practices (65 FR 56468, September 19, 2000). The revised guidance represents the agency's current thinking on the submission of responses to clinical holds. 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 statute and regulations.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance at any time. 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.

Dated: October 13, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–27453 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–304 and 304a]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Reconciliation

of State Invoice and Prior Quarter Adjustment Statement; *Form No.:* HCFA–304 and 304a (OMB# 0938–0676); *Use:* Section 1927 of the Social Security Act requires drug labelers to enter into and have in effect a rebate agreement with HCFA for States to receive funding for drugs dispensed to Medicaid recipients; *Frequency:* Quarterly; *Affected Public:* Business or other-for-profit; *Number of Respondents:* 551; *Total Annual Responses:* 3,744; *Total Annual Hours:* 139,560.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 11, 2000.

John P. Burke III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27524 Filed 10–25–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1728–94, HCFA–2540–96, HCFA–2552–96]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Home Health Agency Cost Report and Supporting Regulations in 42 CFR 413.20, 413.24, and 413.106; *Form No.:* HCFA–1728–94 (OMB 0938–0022); *Use:* Form HCFA–1728–94 is the form used by HHAs participating in the Medicare program. This form reports the health care costs used to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries; *Frequency:* Annually; *Affected Public:* Businesses or other for-profit; Not-for-profit institutions; *Number of Respondents:* 7,310; *Total Annual Responses:* 7,310; *Total Annual Hours:* 1,293,870.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Skilled Nursing Facility Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Form No.:* HCFA–2540 (OMB 0938–0463); *Use:* Form HCFA–2540–96 is the form used by skilled nursing facilities participating in the Medicare program. This form reports the health care costs used to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries; *Frequency:* Annually; *Affected Public:* Businesses or other for-profit; Not-for-profit institutions; *Number of Respondents:* 15,700; *Total Annual Responses:* 15,700; *Total Annual Hours:* 2,685,354.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Hospital Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Form No.:* HCFA–2552–96 (OMB 0938–0050); *Use:* Form HCFA–2552–96 is the form used by hospitals participating in the Medicare program. This form reports the health care costs used to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries; *Frequency:* Annually; *Affected Public:* Businesses or other for-profit; Not-for-profit institutions; *Number of Respondents:* 6,057; *Total Annual Responses:* 6,057; *Total Annual Hours:* 3,981,669.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Because of the volume of paper in the cost reporting chapters, please specify whether you want just the portions we are proposing to revise or the entire chapter for the specific HCFA form number.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 13, 2000.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27525 Filed 10–25–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–131]

Agency Information Collection Activities: Proposed Collection; Comment Request; Public Information Collection Meeting to Discuss Proposed Revisions

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed

information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Part B Advance Beneficiary Notice and Supporting Regulations in 42 CFR 411.404 and 411.408; *Form No.:* HCFA–R–131 (OMB#0938–0566); *Use:* Part B suppliers, physicians, and practitioners who accept assignment and Part A providers furnishing Part B services—these entities may bill a patient for services denied by Medicare as not reasonable and necessary under Medicare program standards if they have informed the patient, before furnishing the services, that Medicare was likely to deny Part B payment for the services; nonparticipating physicians when they do not accept assignment—these physicians may bill a patient for physician services denied by Medicare as not reasonable and necessary under Medicare program standards if they have informed the patient, before furnishing the services, that Medicare was likely to deny Part B payment for the services and the patient, after being so informed, agreed to pay for the services; suppliers furnishing Part B durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), whether or not they accept assignment—these suppliers may bill a patient for DMEPOS items and services denied by Medicare: (1) As not reasonable and necessary under Medicare program standards, (2) because the supplier made an unsolicited telephone contact, (3) because the supplier failed to obtain a supplier number, or (4) because the supplier failed to obtain an advance determination of coverage, if they have informed the patient, before furnishing the items and/or services, that Medicare was likely to deny Part B payment for the items and/or services and the patient, after being so informed, agreed to pay for the services; *Frequency:* On occasion; *Affected Public:* Individuals or households; *Number of Respondents:* 980,742; *Total Annual Responses:* 18,823,150; *Total Annual Hours:* 2,352,894.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, telephone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

In addition, HCFA will hold a public meeting to permit interested parties an opportunity to give their views on the content and distribution of the Part B Advance Beneficiary Notices. Representatives of providers and suppliers furnishing Part B services, health care consumer advocacy groups, and other members of the public who wish to participate in the public meeting are asked to notify HCFA, in advance, of their interest in attending. At this meeting, HCFA will solicit comments on the issues listed in the first paragraph of this notice.

The public meeting will be held on Tuesday, November 28, 2000, from 11 a.m. to 4 p.m., EST in the Multipurpose Room (capacity: 100 persons) of the Health Care Financing Administration, 7500 Security Blvd., Baltimore MD 21244. Interested parties should provide notification of their planned attendance to Raymond Boyd either by telephone (410–786–4544), fax (410–786–4047), or e-mail (rboyd@HCFA.gov), no later than 3 p.m., Friday, November 22, 2000.

Dated: October 13, 2000.

John P. Burke, III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27526 Filed 10–25–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0315]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Data on Physician Encounters from Medicare + Choice Organizations; *HCFA Form Number:* HCFA–R–0315 (OMB# 0938–0805); *Use:* HCFA requires physician encounter data from Medicare + Choice organizations to develop and implement a risk adjustment payment methodology as required by the Balanced Budget Act of 1997; *Frequency:* Monthly; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 300; *Total Annual Responses:* 75.6 million; *Total Annual Hours:* 938,700.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 17, 2000.

John P. Burke III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27527 Filed 10–25–00; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10019]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with section 1847 of the Social Security Act. We cannot reasonably comply with the normal clearance procedures because public harm would result. In order to determine the best way to let competitve bids to the most efficient/effective bidder and as soon as possible, we must conduct the demonstration on as recent data as possible; we also need the data as soon as possible in order to include our findings in a report to Congress in January 2002.

HCFA is requesting OMB review and approval of this collection by November 21, 2000 with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by November 21, 2000. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval. *Type of Information Request:* New collection; *Title of Information Collection:* Durable Medical Equipment and Prosthetics, Orthotics and Supplies (DMEPOS) Supplier Survey; *HCFA Form Number:* HCFA–10019 (OMB approval #: 0938–NEW); *Use:* This survey is necessary to collect access, quality, and financial performance information from suppliers of durable medical equipment (hospital beds, oxygen, urologic supplies, enteral nutrition, or wound care). The information will be presented to HCFA and to Congress, who will use the results to determine whether the demonstration should be extended to other sites; *Frequency:* Once; *Affected Public:* Business or other for-profit; *Number of Respondents:* 340; *Total Annual Responses:* 340; *Total Annual Burden Hours:* 620.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, by November 20, 2000.

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262. Attn: Julie Brown, HCFA 10019

and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167. Attn: Wendy Taylor, HCFA Desk Officer.

Dated: October 21, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards

[FR Doc. 00–27626 Filed 10–24–00; 12:28 pm]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Public Health Service; Notice of Listing of Members of the Substance Abuse and Mental Health Services Administration's Senior Executive Service Performance Review Board (PRB)

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces the persons who will serve on the Substance Abuse and Mental Health Services Administration's Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals, and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the SAMHSA Performance Review Board, which oversees the evaluation of performance appraisals of SAMHSA's Senior Executive Service (SES) members: Joseph Autry, M.D., Chairperson; H. Westley Clark, M.D., J.D., M.P.H; Ruth Sanchez-Way, Ph.D.; Randolph Wykoff, M.D., M.P.H., T.M.

For further information about the SAMHSA Performance Review Board, contact the Division of Human Resources Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Land, Room 14 C–24, Rockville, Maryland

20857, telephone (301) 443–5030 (not a toll-free number).

Dated: October 18, 2000.

Nelba Chavez,

Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 00–27451 Filed 10–25–00; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE034594

Applicant: M. Brent McClane, St. Louis, Missouri.

The applicant requests a permit to take (capture, handle and release) all federally listed unionid mussel species within U.S. Fish and Wildlife Service Regions 3 and 4, in particular Clubshell (*Pleurobema clava*), Curtis' pearlymussel (*Epioblasma florentina curtisi*), Fanshell (*Cyprogenia stegaria*), Fat pocketbook (*Potamilus capax*), Higgins' eye pearlymussel (*Lampsilis higginsi*), Orange-foot pimpleback pearlymussel (*Plethobasus cooperianus*), Pink mucket pearlymussel (*Lampsilis abrupta*), Scaleshell mussel (*Leptodea leptodon*), White wartyback pearlymussel (*Plethobasus cicatricosus*), and Winged mapleleaf mussel (*Quadrula fragosa*). The applicant requests the permit to collect the threatened and endangered mussel species in all streams located throughout U.S. Fish and Wildlife Service Region 3 (Iowa, Illinios, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin) and portions of Region 4 (Arkansas, Kentucky, Tennessee, and West Virginia). Activities are proposed for studies to identify populations of listed mussel species, develop methods to minimize or avoid project related impacts to those populations, and to identify new populations of listed unionid species. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy of such documents from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, *peter_fasbender@fws.gov*, telephone (612/713–5343), or FAX (612/713–5292).

Dated: October 20, 2000.

T.J. Miller,

Acting, Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 00–27505 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Harry (Sonny) L. Evans, Jr. San Antonio, TX, PRT–032508.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Daniel Brunner, San Antonio, TX, PRT–032500.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Smithsonian National Zoological Park, Washington, DC 20008, PRT–700309.

The applicant seeks to renew their permit to take, import, export, re-export, and purchase in interstate and foreign commerce blood, hair, and other tissue samples and salvaged carcasses from any endangered wildlife exotic to the United States for the purpose of scientific research to enhance the survival of endangered species in the wild. Samples are to be obtained from wild, captive held, or captive born animals. Samples collected from animals in the wild are to be done so opportunistically during immobilization of the animals by local wildlife management officials. Wild animals may be immobilized, but not harmed, for collection of samples. This notification covers activities conducted by the applicant over a five year period.

Applicant: The Peregrine Fund, Boise, ID, PRT–819573.

The applicant requests a permit to import live harpy eagle (*Harpia harpja*), blood, tissue, and DNA samples and to export/re-export live birds as part of an on-going conservation project which enhances the survival and propagation of this species. This notice covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Phil Mancuso, Staten Island, NY, PRT–034958.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Cambridge Bay polar bear population, Northwest Territories, Canada for personal use.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S.

Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 20, 2000.

Charlie Chandler,

Chief, Branch of Permits, Division of Management Authority.

[FR Doc. 00–27509 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–01–1020–XX: GP1–0011]

Notice of Meeting of John Day/Snake Resource Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Meeting of John Day/Snake Resource Advisory Council (RAC): Pendleton, Oregon, November 27–28, 2000.

SUMMARY: On November 27, 2000 at 10 a.m. there will be a meeting of the John Day/Snake RAC at the Red Lion Hotel, 304 Southeast Nye Avenue in Pendleton, Oregon. The meeting is open to the public. Public comments will be received at 10 a.m. on November 28, 2000. The following topics will be discussed by the council: Program of work, Hells Canyon Subgroup Charter review, RAC membership review, Schedule of Proposed Actions, Blue Mountain Demo Area Project, Social Economic Map update; OHV followup; A 15 minute round table for general issues.

FOR FURTHER INFORMATION CONTACT: Sandy L. Guches, Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, Telephone (541) 473–3144.

Sandy L. Guches,

Acting District Manager.

[FR Doc. 00–27466 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–090–1020XQ]

Notice of Meeting

AGENCY: Lower Snake River District, Bureau of Land Management, Interior.

ACTION: Meeting Notice.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise. Potential agenda topics are Off-Highway Motor Vehicle Funds, Fire Management and Restoration Workplan, Revised Priorities for Allotment Assessment, Conservation planning for Slickspot Peppergrass (lepidium papilliferum) and other resource management issues.

DATES: November 13, 2000. The meeting will begin at 9 a.m. Public comment period will be held at 9:30 a.m.

ADDRESSES: The meeting will be held at the Lower Snake River District Office, located at 3948 Development Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Mary Jones, Lower Snake River District Office (208–384–3305).

Katherine Kitchell,

District Manager.

[FR Doc. 00–27506 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–00–B128; CACA 41781]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In the notice document 65–147 beginning on page 46733 in the issue of Monday, July 31, 2000, make the following correction; On page 46733 in the first column the legal description reads sec. 35, W½SE¼, NE¼. This should read sec. 35, W½W½SE¼, NE¼.

Dated: October 19, 2000.

David Mcilnay,

Chief, Branch of Lands.

[FR Doc. 00–27528 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS) Scientific Committee (SC) of the Minerals Management Advisory Board; Announcement of Plenary Session

AGENCY: Minerals Management Service, Interior.

SUMMARY: The Minerals Management Advisory Board OCS SC will meet at the Chateau Sonesta Hotel in New Orleans, Louisiana, November 28–30, 2000.

The OCS SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific merit of the MMS OCS Environmental Studies Program as it relates to information needed for informed OCS decisionmaking.

The Committee will meet in plenary session on Tuesday, November 28, from 8 a.m. to 5:30 p.m., and meet in breakout sessions by discipline in the morning and regionally in the afternoon of November 29. The plenary session will reconvene at 8 a.m. on November 30 and adjourn at noon.

Discussion will focus on the following:

- Ocean Activities Update
- Future Plans for Sand and Gravel Program
- Environmental Studies Program Highlights
- Regional Updates

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by calling Julie Reynolds at (703) 787–1211 or by electronic mail (julie.reynolds@mms.gov). Other inquiries concerning the OCS SC meeting should be addressed to Mr. Robert LaBelle, Executive Secretary to the OCS Scientific Committee Minerals Management Service, 381 Elden Street, Mail Stop 4040, Herndon, Virginia 20170–4817. He may be reached by telephone at (703) 787–1756, and by electronic mail at robert.labelle@mms.gov.

DATES: November 28–30, 2000.

ADDRESSES: Chateau Sonesta Hotel, 800 Iberville Street, New Orleans, Louisiana 70112–3143, telephone (504) 586–0800.

FOR FURTHER INFORMATION CONTACT: Julie Reynolds or Robert LaBelle at the address or phone numbers listed above.

Authority: Federal Advisory Committee Act, Pub. Law 92–463, 5 U.S.C., appendix I, and the Office of Management and Budget's circular A–63, Revised.

Dated: October 19, 2000.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 00–27592 Filed 10–25–00; 8:45 am]

BILLING CODE 4043–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the National Landmarks Committee of the National Park System Advisory Board will be held at 9 a.m. on the following date and at the following location.

DATES: November 9, 2000.

LOCATION: Room LL43; Lower Level; 800 North Capitol Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Henry, National Register, History, and Education (NC–400); National Park Service, 1849 C Street, NW; Washington, DC 20013–7127. Telephone (202) 343–8163.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the National Landmarks Committee of the National Park System Advisory Board is to evaluate nominations of historic properties in order to advise the full National Park System Advisory Board, meeting on November 16, 2000, of the qualifications of properties being proposed for National Historic Landmark (NHL) designation, and to recommend to the National Park System Advisory Board those properties that the Landmarks Committee finds meet the criteria for designation as National Historic Landmarks. The members of the National Landmarks Committee are:

Mr. Parker Westbrook, CHAIR
Ms. Marie Ridder
Dr. Allyson Brooks
Dr. Ian W. Brown
Mr. S. Allen Chambers, Jr.
Dr. Elizabeth Clark-Lewis
Mr. Jerry L. Rogers
Dr. Richard Guy Wilson

The meeting will include presentations and discussions on the national historic significance and the historic integrity of a number of properties being nominated for National Historic Landmark designation. The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file for consideration by the committee written comments concerning nominations and matters to be discussed pursuant to 36 CFR Part 65.

Comments should be submitted to Carol D. Shull, Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places; National Register, History, and Education (NC–400); National Park Service; 1849 C Street, NW., Washington, DC 20240–7127.

The committee will consider the following nominations:

Alabama

Old Mobile Site

Arkansas

Daisy Bates House

California

Baldwin Hills Village
Fresno Sanitary Landfill

Colorado

Rocky Mountain National Park Administration Building

District of Columbia

Andrew Rankin Memorial Chapel, Frederick Douglass Memorial Hall, and Founders Library, Howard University

Indiana

First Christian Church
Mabel McDowell Elementary School

Louisiana

Magnolia Plantation
Oakland Plantation

Massachusetts

Cape Ann Light Station

Mississippi

Hester Site
Charles McLaran House

New York

Gerrit Smith Estate

North Carolina

Guilford Court House Battlefield
Wright Brothers National Memorial Visitor Center

Oklahoma

Bizzell Library, University of Oklahoma

Tennessee

Ryman Auditorium

Utah

Quarry Visitor Center

Vermont

Shelburne Farms

Wisconsin

Wisconsin State Capitol

The committee will consider the following boundary expansions:

California

Mendocino Woodlands National Recreation Demonstration Area

New York

Tubman Home for the Aged, Harriet Tubman Residence and Thompson A.M.E. Zion Church

The committee will consider the following documentation improvements:

Michigan

Mackinac Island

New Mexico

Palace of the Governors

The committee will consider the following property for withdrawal of its National Historic Landmark designation:

Pennsylvania

Charles B. Dudley House

The following property will be on the agenda if waivers to the 60-day notification period are received from the owner and the highest elected local official.

South Carolina

Charlesfort-Santa Elena Site

The committee will also consider the recommendations presented in the Draft Old Spanish Trail National Historic Trail Feasibility Study and Environmental Assessment, prepared under the auspices of Public Law 104–333.

Dated: October 20, 2000.

Beth Savage,

Acting Keeper of the National Register of Historic Places, National Park Service, Washington, DC.

[FR Doc. 00–27477 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of The State Museum of Pennsylvania, Harrisburg, PA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of The State Museum of Pennsylvania, Harrisburg, PA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by The State Museum of Pennsylvania professional staff in consultation with representatives of the Delaware Nation, Oklahoma (formerly Delaware Tribe of Western Oklahoma); and the Delaware Tribe of Indians, Oklahoma.

At an unknown date, human remains representing six individuals were removed during excavations at the Overpeck Site (36Bu5), Bridgeton Township, Bucks County, PA by William Strohmeir and Elmer Erb. In 1983, remains representing one of these individuals were donated to The State Museum of Pennsylvania by Mr. Strohmeir. Remains representing four of these individuals were donated to the museum by Mr. Erb the same year. In 1986, the Society of Pennsylvania Archaeologists purchased the last set of these remains from the estate of Mr. Erb and donated them to The State Museum of Pennsylvania. No known individuals were identified. No associated funerary objects are present.

Previous archeological investigations at the Overpeck Site identified 15th century proto-historic pottery styles characteristic of the Lenape (Delaware). Ethnohistorical accounts also place Lenape bands in the vicinity of the site during the early Colonial Period. There is no evidence to contradict this.

In 1978, human remains representing 15 individuals and 2,206 associated funerary objects were removed during excavations at the Montgomery Site (36Ch60), Wallace Township, Chester County, PA by Dr. Marshall Becker, West Chester University. Dr. Becker donated the remains and objects to The State Museum of Pennsylvania the same year. No known individuals were identified. The associated funerary objects include animal bone fragments; glass, seed, and wampum beads; brass bells; buckskin fragments; charcoal fragments; clothing fasteners; brass, silver, and iron buckles; copper and pewter buttons; glass bottle fragments; iron tools; coffin and regular nails; miscellaneous brass fragments; hinges; miscellaneous seeds and nuts; a pewter pipe; a stone scraper; fabric fragments; a thimble; unidentified organic material; and wood fragments.

The Euroamerican assemblage of objects dates the burials to the 18th century. Oral tradition, and ethnohistorical and archeological evidence place a "Brandywine Band" of the Lenape (Delaware) at the site circa A.D. 1730. There is no evidence to contradict this.

In 1976, human remains representing one individual were removed from the Printz Park Site (36De3), Tinicum Township, Delaware County, PA by Dr. Marshall Becker, West Chester University, while under contract to The State Museum of Pennsylvania. No known individual was identified. No associated funerary objects are present.

Ethnohistoric evidence and archeological evidence indicate that the remains most likely are associated with a protohistoric Lenape (Delaware) occupation, circa A.D. 1500 at the Prinz Park Site. There is no evidence to contradict this.

At an unknown date, human remains and funerary objects were removed from the Chambers Site (36 Lr11), Union Township, Lawrence County, PA by John A. Zukcia. In 1968, The State Museum of Pennsylvania purchased human remains representing eight of these individuals from Mr. Zukcia. No known individuals were identified. The State Museum of Pennsylvania also purchased 5,128 funerary objects removed during the same excavations at the Chambers Site. A total of 2,116 objects were associated with the 8 burials in the possession of The State Museum of Pennsylvania. The remainder of the purchased objects are associated with burials currently in the possession of the Carnegie Museum, Pittsburg, PA. The associated funerary objects include brass, seed, glass, shell, and silver beads; brass bells; a brass kettle; buckskin fragments; iron buckles; brass, silver, and wood buttons; gun parts; Euroamerican ceramics; iron tools; knife blade fragments, box fragments; coffin and regular nails; hinges; leather fragments; charred maize cobs; mirror fragments; bracelets; danglers; brooches; rings; earrings; cufflinks; pendants; spoons; strike-a-lights; thimbles; textiles; wampum belt fragments; and wood fragments.

The Euroamerican assemblage of objects associated with the human remains dates the burials to the 18th century. Ethnohistoric and documentary evidence identify the Chambers Site as a Lenape (Delaware) occupation dating to A.D. 1763-1776. There is no evidence to contradict this.

In 1978, human remains representing 28 individuals and 11,097 associated funerary objects were removed during excavations at the Wapwallopen Site (also known as the Knouse Site) (36 Lu43), Conyngham Township, Luzerne County, PA by The State Museum of Pennsylvania staff. No known individuals were identified. The objects include seed and glass beads; brass bell; buttons; a projectile point; brick fragments; charcoal fragments; gun parts; coffin nails; mirror fragments; miscellaneous objects made from iron, brass, and leather; seeds and nuts; medallions; jinglers; chain fragments; a bracelet; rings; spirals; silver brooch; shell pendant; kaolin and calumet pipes; stone tools; brass thimble; unidentified organic material; unidentified pottery sherds; a brass box; a whetstone; and wood coffin fragments.

The Euroamerican assemblage of objects found with the human remains dates the burials to the 18th century. Ethnohistorical evidence and documentary evidence identify the Wapwallopen Site as a Lenape (Delaware) occupation dating to A.D. 1744-1755. There is no evidence to contradict this.

Based on the above-mentioned information, officials of The State Museum of Pennsylvania have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 58 individuals of Native American ancestry. Officials of The State Museum of Pennsylvania also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 18,431 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of The State Museum of Pennsylvania have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Delaware Nation, Oklahoma and the Delaware Tribe of Indians, Oklahoma.

This notice has been sent to officials of the Delaware Nation, Oklahoma; and the Delaware Tribe of Indians, Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Stephen G. Warfel, Senior Curator, Archaeology, The State Museum of Pennsylvania, 300 North Street, Harrisburg, PA 17120–0024, telephone (717) 783–2887, before November 27, 2000. Repatriation of the human remains and associated funerary objects to the Delaware Nation, Oklahoma; and the Delaware Tribe of Indians, Oklahoma may begin after that date if no additional claimants come forward.

Dated: October 16, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–27395 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Arrowrock Dam Outlet Works Rehabilitation, INT–DES 00–45

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement and notice of public hearings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (Draft EIS) to examine the impacts of alternatives to rehabilitate the outlet works at Arrowrock Dam. The Bureau of Reclamation proposes to remove 10 lower level Ensign valves and replace them with clamshell gates. Two action alternatives have been identified that differ only in the timing of reservoir drawdown and the elevation of Arrowrock Reservoir and Lucky Peak Lake in the third construction season. The preferred alternative requires a longer period of drawdown of Arrowrock Reservoir, but both Arrowrock Reservoir and Lucky Peak Lake would remain at a higher elevation than with the other action alternative. The No Action Alternative is also evaluated. The No Action Alternative is defined as the most likely future without the proposed project, and includes actions that would be required for an intensive maintenance program if the Ensign valves were not replaced.

DATES: Written comments on the Draft EIS must be submitted by January 5, 2001, to the address listed under the Addresses Section. Public hearings to accept oral comments on the Draft EIS will be held on December 12, from 1 to 4 p.m. and from 5 to 8 p.m. in Boise, Idaho. Persons requiring any special services at the public hearing should contact Mr. Tiedeman (see below) by December 5, 2000.

ADDRESSES: The public hearings will be held at the Idaho State Historical Museum, Second Floor Conference Room, Julia Davis Park, 610 N. Julia Davis Drive, Boise, ID.

Written comments on the Draft EIS should be submitted to: Mr. John Tiedeman, Bureau of Reclamation, 1150 N. Curtis Road, Suite 100, Boise ID 83706–1234.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. John Tiedeman, (208) 378–5034.

SUPPLEMENTARY INFORMATION: Arrowrock Dam and Reservoir, completed in 1915, were constructed by the Bureau of Reclamation (Reclamation) as part of the Boise Project. The dam is located on the main stem Boise River about 17 river miles upstream from the city of Boise and is operated as one of three storage facilities constructed on the Boise River. Anderson Ranch Dam and Reservoir, located on the South Fork Boise River and generally east of Arrowrock Dam, were completed by Reclamation in 1950 as part of the Boise Project. Lucky Peak Dam and Lake, located to the southwest and about 11 river miles downstream of Arrowrock Dam, were completed by the U.S. Army Corps of Engineers (Corps) in 1957. Reclamation and the Corps operate the three storage dams in a coordinated method for irrigation water supply (Reclamation markets the water supply in Lucky Peak Lake for irrigation), flood control, recreation, and fish and wildlife.

Reclamation began considering modification of Arrowrock Dam outlet works in 1982; some conceptual designs for replacement of some of the Ensign valves were developed in 1983. Over several years, various possible designs were identified and evaluated, and in 1987 a conceptual design suggested clamshell gates. Increasing maintenance problems resulted in the current effort to identify and evaluate solutions to the maintenance problems associated with the now 85-year old Ensign valves. The scope of this study was limited to valve replacement to retain and improve operational flexibility of Arrowrock Dam and Reservoir. Reclamation's scoping process has included numerous meetings with state and Federal agencies, local groups, and interested individuals. Notices of intent to prepare an EIS and to hold public scoping meetings were published and two public scoping meetings were held on November 20, 1998. The results of meetings and comments have been considered in the development of alternatives.

The Draft EIS is limited to the potential effects of replacing the lower row of Ensign valves with clamshell gates. Reclamation has deferred maintenance and replacement activities on the lower Ensign valves since 1988 so that action alternatives could be identified and compared to a No Action alternative consisting of an aggressive maintenance program. Environmental effects of the action and No Action alternatives were analyzed for the stream reaches and reservoirs upstream and downstream from Arrowrock Dam and Reservoir. Potential environmental effects are generally limited to those associated with construction and the reservoir drawdowns necessary for maintenance and replacement of the lower outlets. A major concern associated with the drawdowns is bull trout which are found in Arrowrock Reservoir and the streams upstream; bull trout were listed as a threatened species in June 1998.

Those wishing to obtain a copy of the Draft EIS or schedule time, in advance, to make oral comments at the hearing(s) may contact Mr. Tiedeman. Speakers will be called in order of their requests. Requests to comment may also be made at each hearing and speakers will be scheduled to follow the advance requests. Comments will be limited to 10 minutes and will be recorded by a court stenographer to be included in the hearing record. The Draft EIS is available for viewing on the internet at *http://www.pn.usbr.gov/project/arrowrock/arrowrock.shtml*.

Dated: October 16, 2000.

J. William McDonald,

Regional Director, Pacific Northwest Region.

[FR Doc. 00–27595 Filed 10–25–00; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 ET SEQ.

Notice is hereby given that on October 11, 2000 a proposed consent decree in *United States* v. *Keystone Sanitation Co., Inc.*, Civil Action No. 1:CV–93–1482, was lodged with the United States District Court for the Middle District of Pennsylvania.

The United States brought this action under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act

(CERCLA), 42 U.S.C. 9607, to recover its past costs incurred at the Keystone Sanitation Co. Superfund Site, located near Hanover, Pennsylvania. There have been a number of prior consent decrees at the site. The proposed consent decree obligates the Owner/Operators to perform and fully finance the enhanced landfill gas extraction ("ELGE") alternate remedy, which EPA proposed at the Site on June 1, 2000 if, after review of public comment, EPA selects it. The decree also requires the Owner/Operators to implement the landfill cap, which EPA previously selected as a remedy at the Site in a 1990 ROD, or a contingent remedy if the ELGE alternate remedy is selected but fails to meet performance standards. EPA agrees to share the costs of those latter two remedial actions.

The Owner/Operators also agree to pay $125,000 toward natural resource damages. Waste Management is obligated to pay $250,000 as a penalty for its non-compliance with a prior unilateral administrative order at the Site. As with prior settlements at the Site, the owner/operators also waive all existing claims for contribution against all generator or transporter parties, and future claims for contribution in the event of a reopener against parties meeting specific criteria.

The Pennsylvania Department of Environmental Protection (PADEP) is a co-plaintiff and signatory to this decree. It provides a covenant not to sue under CERCLA and its state Superfund statute in exchange for the Owner/Operators' agreement to perform the work and operation and maintenance at the Site, and to reimburse it for certain past costs and natural resource damages. The decree also resolves two small related actions, brought under the Federal Debt Procedures Collection Act, 28 U.S.C. 3001 *et seq.*, and one brought by the Keystone Defendants under the Freedom of Information Act, 5 U.S.C.A. 552.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistance Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Keystone Sanitation Co., Inc., et al.*, (M.D. Pa.), DOJ #90–11–2–656A.

The consent decree may be examined at the Office of the United States Attorney for the Middle District of Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108, and at EPA Region III, 1650 Arch Street, Philadelphia, PA. A copy of the decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $70.00, payable to the Consent Decree Library.

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27530 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy and 28 C.F.R. 50.7, notice is hereby given that on October 4, 2000, a consent decree was lodged in *United State* v. *Maryland Aviation Administration, a Unit of the Maryland DOT*, Civil Action No. WMN–00–2992, with the United States District Court for the District of Maryland.

This consent decree resolves alleged violations of Clean Water Act section 309, 33 U.S.C. 1319, against the Maryland Aviation Administration, a Unit of the Maryland Department of Transportation, which is an Agency of the State of Maryland, for discharges in excess of permitted effluent limits and failure to meet requirements set forth in MAA's National Pollutant Discharge Elimination System permit for its facility at the Baltimore Washington International Airport in Glen Burnie, Anne Arundel County, Maryland. Components of the settlement include: (1) Injunctive provisions designed to reduce the amount of deicing fluid discharged; (2) a penalty payment of $50,000; (3) a Supplemental Environmental Project to perform a fish study valued at $90,000; and (4) a payment of $50,000 to the citizen plaintiffs for their attorneys fees and costs associated with the related civil action: WMN–98–784.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Maryland Aviation Administration, a Unit of the Maryland DOT*, DOJ Ref. No. 90–5–1–1–4543. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Maryland, 604 United States Courthouse, 101 West Lombard Street, Baltimore, MD 21201. Copies of the consent decree may also be examined at the offices of the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the Consent Decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. When requesting a copy by mail, please enclose a check in the amount of $10.75 (twenty-five cents per page reproduction costs), payable to the "Consent Decree Library."

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27531 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 5, 2000, a proposed Consent Decree in *United States* v. *Menard, Inc., et al.* (E.D. Wisconsin), Civil Action No. 00–C–1323 was lodged with the United States District Court for the Eastern District of Wisconsin.

This Consent Decree represents a settlement of claims brought against defendants ("Settling Defendants") in the above-referenced action under section 107 of the Comprehensive Environmental Response, Compensation, and Recovery Act ("CERCLA"), 42 U.S.C. 9607, to recover costs incurred by the United States in connection with the Fadrowski Drum Disposal Site in Franklin, Wisconsin (the "Site"). The Settling Defendants are Menard, Inc., INX International Ink Company, Inc.; Briggs & Stratton Corporation; The Falk Corporation; Giddings & Lewis, LLC; AMSTED Industries, Incorporated; The Manitowoc Company, Inc.; Miller Brewing Company; Dresser Industries, Inc.; and Waukesha Engine Division, a Division of Dresser Equipment Group, Inc.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United*

States v. *Menard, Inc., et al.* (E.D. Wisconsin), D.J. Ref. 90–11–2–809/1.

The Consent Decree may be examined at the Office of the United States Attorney, 517 East Wisconsin Avenue, Room 530, Milwaukee, Wisconsin 53202, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $7.50 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Bruce S. Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27532 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Judgment Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Rymes Heating Oils, Inc. and James Rymes,* DOJ #90–5–2–1–06111, Civ. No. 00–453–B, was lodged in the United States District Court for the District of New Hampshire on September 19, 2000. The consent decree resoles the liability of defendants Rymes Heating Oils and James Rymes under section 211 of the Clean Air Act ("CAA"), 42 U.S.C. 7545, and regulations promulgated thereunder, for violations of statutory and regulatory requirements pertaining to the use of reformulated gasoline and low-sulfur motor vehicle diesel fuel.

Under the terms of the proposed consent decree, defendants are obligated, jointly and severally, to pay $200,000 as a civil penalty to the Government for their violations of the CAA and regulations. Additionally, defendants certify that they are in compliance with he CAA and regulations pertaining to fuels, and they agree to comply in the future with those provisions.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written 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, Washington, D.C. 20530, and should refer to *United States* v. *Rymes Heating Oils, Inc. and James Rymes,* DOJ #90–5–2–1–06111. The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, 55 Pleasant Street—Room 312, Concord, New Hampshire 03301; and at the Region I Office of the U.S. Environmental Protection Agency, One Congress Street, Suite 1100—RCA, Boston, Massachusetts 02114–2023. Copies of the Consent Decree may be obtained by mail from the Justice Department Consent Decree Library, P.O. Box 7611 Ben Franklin Station, Washington, DC 20044, (202) 514–1547. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Bruce Gelber,

Environmental Enforcement Section, Environment and Natural Resources, Division.

[FR Doc. 00–27529 Filed 10–25–00; 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—Die Products Consortium ("DPC")

Notice is hereby given that, on September 22, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Die Products Consortium ("DPC") 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, Honeywell, Inc., Minneapolis, MN; and Intel Corporation, Santa Clara, CA have been dropped as parties to this venture. Also, Microelectronics and Computer Technology Corporation will cease to administer the Die Products Consortium as of October 1, 2000.

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 Die Products Consortium intends to file additional written notification disclosing all changes in membership.

On November 15, 1999, Die Products Consortium 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 June 26, 2000 (65 FR 39429).

The last notification was filed with the Department on March 31, 2000. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 29, 2000 (65 FR 40129).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–27534 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum

Notice is hereby given that, on August 2, 2000, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Enterprise Computer Telephony Forum ("ECTF") 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, Telesoft Technologies, Inc., Dorset, England, UNITED KINGDOM; Tenovis GmbH & Co. KG, Frankfurt, GERMANY; Call Sciences, Inc., Edison, NJ; Connect-It Communication B.V., Weert, THE NETHERLANDS; Elbit Systems Ltd., Haifa, ISRAEL; and Netergy Networks, Inc., Santa Clara, CA have been added as parties to this venture. Also, Telesoft Design, Ltd., Dorset, England, UNITED KINGDOM; Bosch Telecom GmbH, Frankfurt, GERMANY 8x8, Inc., Santa Clara, CA; and NetPhone, Marlborough, MA, have been dropped as parties to this venture.

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 ECTF intends to file additional written notifications disclosing all changes in membership.

On February 20, 1996, ECTF 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 May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on June 12, 2000. A

notice for this filing has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–27533 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Previously approved collection by OMB; request for revision of form used for collecting information; Analysis of Law Enforcement Officers Killed and Assaulted.

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 16, 2000 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until November 27, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, NW, Washington, DC 20530.

Overview of This Information Collection

(1) *Type of information collection:* Previously approved collection by OMB; request for revision of form used for collecting information.

(2) *The title of the form/collection:* Analysis of Law Enforcement officers Killed and Assaulted.

(3) *The agency form number, if any, and applicable component of the department sponsoring the collection:* Form: 1–728. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Local and State Law Enforcement Agencies. Collection will be printed in English and Spanish. This collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is analyzed, tabulated, and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 570 estimated annual responses (zero reports are not required); and with an average of 1 hour per report per responding agency.

(7) *An estimate of the total public burden (in hours) associated with this collection:* 570 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 20, 2000.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 00–27498 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services Division; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Previously approved collection by OMB; request for revision of form used for collecting information; Law Enforcement Officers Killed and Assaulted (LEOKA).

The Department of Justice, Federal Bureau of Investigation has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 16, 2000 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until November 27, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Comments should address one or more of the following four points'

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniqués of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to Department of Justice Office of Management and Budget, Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 1725 17th Street, NW., Washington, DC 20530.

Overview of This Information Collection

(1) *Type of information collection:* Previously approved collection by OMB; request for revision of form used for collecting information.

(2) *The title of the form/collection:* Law Enforcement Officers Killed and Assaulted (LEOKA).

(3) *The agency form number, if any, and applicable component of the department sponsoring the collection:* Form: 1–705. Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract:* Primary: Local and State Law Enforcement Agencies. this collection is needed to provide data regarding Law Enforcement Officers Killed and Assaulted throughout the United States. Data is tabulated and published in the comprehensive annual *Law Enforcement Officers Killed and Assaulted.*

(5) The FBI UCR Program is currently reviewing its race and ethnicity data collection in compliance with the Office of Management and Budget's *Revisions for the Standards for the Classification of Federal Data on Race and Ethnicity.*

(6) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to reply:* 17,667 agencies with 212,004 estimated annual responses (includes zero reports); and with an average completion time of 7 minutes a month per responding agency.

(7) *An estimate of the total public burden (in hours) associated with this collection:* 24,734 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: October 20, 2000.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 00–27499 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of Information Collection Under Review; Refugee/Asylee Relative Petition.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until December 26, 2000.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–730. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form will be used by an asylee or refugee to file on behalf of his or her spouse and/or children provided that the relationship to the refugee/asylee existed prior to their admission to the United States. The information collected on this form will be used by the Service to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 86,400 responses at 35 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,371 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: October 20, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 00–27589 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: comment Request.

ACTION: Notice of information collection under review; Applicant survey.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. comments are encouraged and will be accepted for "sixty days" until December 26, 2000.

Written comments and suggestions from the public and affected agencies

concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Applicant Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–942. Human Resources Branch, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This form is required to ensure compliance with Federal laws and regulations which mandate equal opportunity in the recruitment of applicants for Federal employment.

(5) *An estimate of the total number of respondents and the amount of time estimated fro an average respondent to respond:* 75,000 responses at 4 minutes (.066) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: October 20, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 00–27590 Filed 10–25–00; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Naturalization.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

The INS published a **Federal Register** notice on October 16, 1998 at 63 FR 55643 to solicit public comments for a 60-day period regarding an initial draft revision of Form N–400 (Application for Neutralization). In order to encourage more comments, the INS published a second **Federal Register** notice on January 8, 1999 at 64 FR 1219, exhibiting a draft of the revised form and soliciting additional public comments for a period of 60 days. Under these two notices, written comments were received from 20 organizations and individuals. Some of the commenting organizations represented several other groups that joined in the opinions submitted. Additional comments were received internally from INS personnel. The revised draft N–400 was exhibited in the **Federal Register** on June 28, 2000 at 65 FR 39926, with an invitation for further comments during another period of 60 days. During that period, additional comments were received from 8 organizations and individuals. The written public comments, as well as those received from the focus groups and from INS personnel have been addressed in the accompanying Supporting Statement.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 27, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530; 202–395–4318.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–400, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. The information collected is used by the INS to determine eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: 700,000 responses at 6 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,200,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: October 20, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0009

Application for Naturalization

Instructions

What Is This Form?

This form, the N-400, is an application for United States citizenship (naturalization). For more information about the naturalization process and eligibility requirements, please read *A Guide to Naturalization* (Form M-476.). If you do not already have a copy of the *Guide*, you can get a copy from:

- the INS Web Site (www.ins.usdoj.gov);
- the National Customer Service Center (NCSC) telephone line at 1-800-375-5283 (TTY: 1-800-767-1833); or
- your local INS office.

Who Should Use This Form?

To use this form you must be at least 18 years old. You must also be **ONE** of the following:

(1) A Lawful Permanent Resident for at least 5 years;

(2) A Lawful Permanent Resident for at least 3 years
AND
- you have been married to and living with the same U.S. citizen for the last 3 years,

AND
- your spouse has been a U.S. citizen for the last 3 years;

(3) A person who has served in the U.S. Armed Forces
AND
- you are a Lawful Permanent Resident with at least 3 years of U.S. Armed Forces service **and** you are either on active duty or filing within 6 months of honorable discharge

OR
- you served during a period of recognized hostilities and enlisted or re-enlisted in the United States (you do not need to be a Lawful Permanent Resident);

(4) A member of one of several other groups who are eligible to apply for naturalization (for example, persons who are nationals but not citizens of the United States). For more information about these groups, please see the *Guide*.

Who Should NOT Use This Form?

In certain cases, person who was born outside of the United States to U.S. citizen parents is already a citizen and does not need to apply for naturalization. To find out more information about this type of citizenship and whether you should file a Form N-600, "Application for Certificate of Citizenship," read the *Guide*.

Other permanent residents under 18 years of age may be eligible for U.S. citizenship if their U.S. citizen parent or parents file a Form N-600 application in their behalf. For more information, see "Frequently Asked Questions" in the *Guide*.

When Am I Eligible To Apply?

You may apply for naturalization when you meet **all** the requirements to become a U.S. citizen. The section of the *Guide* called "Who is Eligible for Naturalization" and the Eligibility Worksheet found in the back of the *Guide* are tools to help you determine whether you are eligible to apply for naturalization. You should complete the Worksheet before filling out this N-400 application.

If you are applying based on 5 years as a Lawful Permanent Resident or based on 3 years as a Lawful Permanent Resident married to a U.S. citizen, you may apply for naturalization up to 90 days before you meet the "continuous residence" requirement. You must meet all other requirements at the time that you send us your application.

Certain applicants have different English and civics testing requirements based on their age and length of lawful permanent residence at the time of filing. If you are over 50 years of age and have lived in the United States as a lawful permanent resident for periods totaling at least 20 years or if you are over 55 years of age and have lived in the United States as a lawful permanent resident for periods totaling at least 15 years, you do not have to take the English test but you do have to take the civics test in the language of your choice.

If you are over 65 years of age and have lived in the United States as a lawful permanent resident for periods totaling at least 20 years, you do not have to take the English test but you do have to take a simpler version of the civics test in the language of your choice.

What Does It Cost To Apply For Naturalization and How Do I Pay?

For information on fees and form of payment, see the *Guide* insert titled "Current Naturalization Fees." Your fee is not refundable, even if you withdraw your application or it is denied.

If you are unable to pay the naturalization application fee, you may apply in writing for a fee waiver. For information about the fee waiver process, call the NCSC telephone line at 1-800-375-5283 (TTY: 1-800-767- 1833) or see the INS Web Site (www.ins.usdoj.gov) section called "Forms and Fees."

What Do I Send With My Application?

All applicants must send certain documents with their application. For information on the documents and other information you must send with your application, see the Document Checklist in the *Guide.*

Where Do I Send My Application?

You must send your N-400 application and supporting documents to an Immigration and Naturalization Service (INS) Service Center. To find the Service Center address you should use, read the section in the *Guide* called "Completing Your Application and Getting Photographed."

Applicants outside the United States who are applying on the basis of their military service should follow the instructions of their designated point of contact at a U.S. military installation.

How Do I Complete This Application?

- Please print clearly or type your answers using CAPITAL letters in each box.
- Use black or blue ink.
- **Write your INS "A"- number on the top right hand corner of each page.** Use your INS "A"- number on your Permanent Resident Card (formerly known as the Alien Registration or "Green" Card). To locate your "A"- number, see the sample Permanent Resident Cards in the *Guide.* The "A" number on your card consists of 7 to 9 numbers, depending on when your record was created. If the "A"- number on your card has fewer than 9 numbers, place enough zeros before the first number to make a *total of 9 numbers* on the application. For example, write card number A1234567 as A001234567, but write card number A12345678 as A012345678.
- If a question does not apply to you, write **N/A** (meaning "Not Applicable") in the space provided.
- If you need extra space to answer any item:
  - Attach a separate sheet of paper (or more sheets if needed);
  - Write your name, your "A"- number, and "N-400" on the top right comer of the sheet; and
  - Write the number of each question for which you are providing additional information.

Step-by-Step Instructions

This form is divided into 14 parts. The information below will help you fill out the form.

Part 1. Your Name *(the Person Applying for Naturalization)*

A. **Your current legal name-** Your current legal name is the name on your birth certificate unless it has been changed after birth by a legal action such as a marriage or court order.

B. **Your name exactly as it appears on your Permanent Resident Card** *(if different from above)*-- Write your name exactly as it appears on your card, even if it is misspelled.

C. **Other names you have used** - If you have used any other names in your life, write them in this section. If you need more space, use a separate sheet of paper.

If you have NEVER used a different name, write "N/A" in the space for "Family Name *(Last Name)."*

D. **Name change** ***(optional)*** - A court can allow a change in your name when you are being naturalized. A name change does not become final until a court naturalizes you. For more information regarding a name change, see the *Guide.*

If you want a court to change your name at a naturalization oath ceremony, check "Yes" and complete this section. If you do not want to change your name, check "No" and go to Part 2.

Part 2. Information About Your Eligibility

Check the box that shows why you are eligible to apply for naturalization. If the basis for your eligibility is not described in one of the first three boxes, check "Other" and briefly write the basis for your application on the lines provided.

Part 3. Information About You

A. **Social Security Number** - Print your Social Security number. If you do not have one, write "N/A" in the space provided.

B. **Date of Birth** - Always use eight numbers to show your date of birth. Write the date in this order: Month, Day, Year. For example, write May 1, 1958 as 05/01/1958.

C. **Date You Became a Permanent Resident** - Write the official date when your lawful permanent residence began, as shown on your Permanent Resident Card. To help locate the date on your card, see the sample Permanent Resident Cards in the *Guide.* Write the date in this order: Month, Day, Year. For example, write August 9, 1988 as 08/09/1988.

D. **Country of Birth** - Write the name of the country where you were born. Write the name of the country even if it no longer exists.

E. **Country of Nationality** - Write the name of the country where you are currently a citizen or national. Write the name of the country even if it no longer exists.

- If you are stateless, write the name of the country where you were last a citizen or national.
- If you are a citizen or national of more than one country, write the name of the foreign country that issued your last passport.

F. **Citizenship of Parents** - Check "Yes" if either of your parents is a U.S. citizen. If you answer "Yes," you may already be a citizen. For more information, see "Frequently Asked Questions" in the *Guide.*

G. **Current Marital Status** - Check the marital status you have on the date you are filing this application If you are currently not married, but had a prior marriage that was annulled (declared by a court to be invalid) check "Other" and explain it.

H. **Request for Disability Waiver** - If you have a medical disability or impairment that you believe qualifies you for a waiver of the tests of English and/or U.S. government and history, check "Yes" and attach a properly completed Form N-648. If you ask for this waiver it does not guarantee that you will be excused from the testing requirements. For more information about this waiver, see the *Guide.*

I. **Request for Disability Accommodations** - We will make every reasonable effort to help applicants with disabilities complete the naturalization process. For example, if you use a wheelchair, we will make sure that you can be fingerprinted and interviewed, and can attend a naturalization ceremony at a location that is wheelchair accessible. If you are deaf or hearing impaired and need a sign language interpreter, we will make arrangements with you to have one at your interview.

If you believe you will need us to modify or change the naturalization process for you, check the box, or write in the space the kind of accommodation you need. If you need more space, use a separate sheet of paper. Unless you are asking for a full waiver of the tests of English and/or civics, you do not need to send us a Form N-648.

We consider requests for accommodations on a case by case basis. Asking for an accommodation will not affect your eligibility for citizenship.

Part 4. Addresses and Telephone Numbers

A. **Home Address** - Give the address where you now live. Do NOT put post office (P.O.) box numbers here.

B. **Mailing Address** - If your mailing address is the same as your home address, write "same." If your mailing address is different from your home address, write it in this part.

C. **Telephone Numbers (optional)** - If you give us your telephone numbers and e-mail address, we can contact you about your application more quickly. If you are hearing impaired and use a TTY telephone connection, please indicate this by writing "(TTY)" after the telephone number.

Part 5. Information for Criminal Records Search

The Federal Bureau of Investigation (FBI) will use the information in this section, together with your fingerprints, to search for criminal records. Although the results of this search may affect your eligibility, we do NOT make naturalization decisions based on your gender, race, or physical description.

For each item, check the box that best describes you. The categories are those used by the FBI.

Part 6. Information About Your Residence and Employment

A. Write every address where you have lived during the last 5 years (including in other countries).

Begin with were you live now. Also, write the dates you lived in these places. For example, write May 1998 to June 1999 as 05/1998 to 06/1999.

If you need separate sheets of paper to complete section A or B or any other questions on this application, be sure to follow the Instructions in **"How Do I Complete This Application?"** above.

B. List where you have worked (or, if you were a student, the schools you have attended) during the last 5 years. Include military service. If you worked for yourself, write "self employed." Begin with your most recent job. Also, write the dates when you worked or studied in each place.

Part 7. Time Outside the United States ***(Including Trips to Canada and Mexico and the Caribbean)***

A. Write the total number of days you spent outside of the United States (including on military service) during the last 5 years. Count the days of every trip that lasted 24 hours or longer.

B. Write the number of trips you have taken outside the United States during the last 5 years. Count every trip that lasted 24 hours or longer.

C. Provide the requested information for every trip that you have taken outside the United States since you became a Lawful Permanent Resident. Begin with your most recent trip.

Part 8. Information About Your Marital History

A. Write the number of times you have been married. Include any annulled marriages. If you were married to the same spouse more than one time, count each time as a separate marriage.

B. If you are now married, provide information about your current spouse.

C. Check the box to indicate whether your current spouse is a U.S. citizen.

D. If your spouse is a citizen through naturalization, give the date and place of naturalization. If your spouse regained U.S. citizenship, write the date and place the citizenship was regained.

E. If your spouse is not a U.S. citizen, complete this section.

F. If you were married before, give information about your former spouse or spouses. In question F.2, check the box showing the immigration status your former spouse had during your marriage. If the spouse was not a U.S. citizen or a Lawful Permanent Resident at that time check "Other" and explain. For question F.5, if your marriage was annulled, check "Other" and explain. If you were married to the same spouse more than one time, write about each marriage separately.

Note: If you or your present spouse had more than one prior marriage, provide the same information from section F and section G about every additional marriage on a separate sheet of paper.

G. For any prior marriages of your current spouse, follow the instructions in section F above.

Part 9. Information About Your Children

A. Write the total number of sons and daughters you have had. Count **all** of your children, regardless of whether they are:
- alive, missing, or dead;
- born in other countries or in the United States;
- under 18 years old or adults;
- married or unmarried;
- living with you or elsewhere;
- stepsons or stepdaughters or legally adopted; or
- born when you were not married.

B. Write information about all your sons and daughters. In the last column ("Location"), write:
- "with me" - if the son or daughter is currently living with you;
- the street address and state or country where the son or daughter lives - if the son or daughter is NOT currently living with you; or
- "missing" or "dead" - if that son or daughter is missing or dead.

If you need space to list information about additional sons and daughters, attach a separate sheet of paper.

Part 10. Additional Questions

Answer each question by checking "Yes" or "No." If ANY part of a question applies to you, you must answer "Yes." For example, if you were never arrested but *were* once detained by a police officer, check "Yes" to the question "Have you ever been arrested or detained by a law enforcement officer?" and attach a written explanation.

We will use this information to determine your eligibility for citizenship. Answer every question honestly and accurately. If you do not, we may deny your application for lack of good moral character. For more information on eligibility, please see the *Guide.*

Part 11. Your Signature

After reading the statement in Part 11, you must sign and date it. You should sign your full name without abbreviating it or using initials. The signature must be legible. Your application may be returned to you if it is not signed.

If you cannot sign your name in English, sign in your native language. If you are unable to write in any language, sign your name with an "X."

Part 12. Signature of Person Who Prepared This Application for You

If someone filled out this form for you, he or she must complete this section.

Part 13. Signature at Interview

Do NOT complete this part. You will be asked to complete this part at your interview.

Part 14. Oath of Allegiance

Do NOT complete this part. You will be asked to complete this part at your interview.

If we approve your application, you must take this Oath of Allegiance to become a citizen. In limited cases you can take a modified Oath. For more information, see the *Guide*. Your signature on this form only indicates that you have no objections to taking the Oath of Allegiance. It does not mean that you have taken the Oath. If the INS approves your application for naturalization, you must attend an oath ceremony and take the Oath of Allegiance to the United States.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny your application for naturalization and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to a removal proceeding or criminal prosecution.

If we grant you citizenship after you falsify or conceal a material fact or submit a false document with this request, your naturalization may be revoked.

Privacy Act Notice

We ask for the information on this form and for other documents to determine your eligibility for naturalization. Form N-400 processes are generally covered in 8 U.S.C. 1439, 1440, 1443, 1445, 1446, and 1452. We may provide information from your application to other government agencies.

Paperwork Reduction Act Notice

A person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with the information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this form is computed as follows: (1) 2 hours to learn about and complete the form; (2) 4 hours to assemble and file the information - for a total estimated average of 6 hours per application. If you have comments about the accuracy of this estimate or suggestions to make this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4307r, Washington, DC 20536; OMB No. 1115-0009. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0009

Application for Naturalization

Print clearly or type your answers using CAPITAL letters. Failure to print clearly may delay your application. Use black or blue ink.

Part 1. Your Name ***(The Person Applying for Naturalization)***

Write your INS "A"- number here:
A ___ ___ ___ ___ ___ ___ ___ ___ ___

A. Your current legal name.

Family Name *(Last Name)*

Given Name *(First Name)* | Full Middle Name *(if applicable)*

B. Your name exactly as it appears on your Permanent Resident Card.

Family Name *(Last Name)*

Given Name *(First Name)* | Full Middle Name *(if applicable)*

C. If you have ever used other names, provide them below.

Family Name *(Last Name)*	Given Name *(First Name)*	Middle Name

D. Name change *(optional)*

Please read the Instructions before you decide whether to change your name.

1. Would you like to legally change your name? ☐ Yes ☐ No

2. If "Yes," print the new name you would like to use. Do not use initials or abbreviations when writing your new name.

Family Name *(Last Name)*

Given Name *(First Name)* | Full Middle Name

FOR INS USE ONLY

Bar Code | Date Stamp

Remarks

Action

Part 2. Information About Your Eligibility ***(Check Only One)***

I am at least 18 years old **AND**

A. ☐ I have been a Lawful Permanent Resident of the United States for at least 5 years.

B. ☐ I have been a Lawful Permanent Resident of the United States for at least 3 years, AND I have been married to and living with the same U.S. citizen for the last 3 years, AND my spouse has been a U.S. citizen for the last 3 years.

C. ☐ I am applying on the basis of qualifying military service.

D. ☐ Other (please explain) _____

Part 3. Information About You

Write your INS "A"- number
A__ __ __ __ __ __ __ __ __

A. Social Security Number ___-___-____

B. Date of Birth *(Month/Day/Year)* __/__/____

C. Date You Became a Permanent Resident *(Month/Day/Year)* __/__/____

D. Country of Birth

E. Country of Nationality

F. Are either of your parents U.S. citizens? *(if yes, see Instructions)* ☐ Yes ☐ No

G. What is your current marital status? ☐ Single, Never Married ☐ Married ☐ Divorced ☐ Widowed

☐ Marriage Annulled or Other (explain)_____

H. Did you attach a Form N-648 to request a waiver of the English and/or U.S. History and Government requirements based on a disability or impairment? ☐ Yes ☐ No

I. Are you requesting an accommodation to the naturalization process because of a disability or impairment? (See Instructions for some examples of accommodations.) ☐ Yes ☐ No

If you answered "Yes", check the box below that applies:

☐ I am deaf or hearing impaired and need a sign language interpreter who uses the following language: _____

☐ I use a wheelchair.

☐ I am blind or sight impaired.

☐ I will need another type of accommodation. Please explain: _____

_____

_____

Part 4. Addresses and Telephone Numbers

A. Home Address - Street Number and Name *(do NOT write a P.O. Box in this space)* Apartment Number

City County State ZIP Code

B. Mailing Address - Street Number and Name *(if different from home address)* Apartment Number

City State ZIP Code Country

C. Daytime Phone Number *(if any)* ( )

Evening Phone Number *(if any)* ( )

E-mail Address *(if any)*

Part 5. Information for Criminal Records Search

Write your INS "A"- number here:
A _ _ _ _ _ _ _ _ _

Note: The categories below are those required by the FBI. See Instructions for more information.

A. Gender
☐ Male ☐ Female

B. Height
Feet Inches

C. Weight
Pounds

D. Race
☐ White ☐ Asian or Pacific Islander ☐ Black ☐ Native American or Alaskan Native ☐ Other

E. Hair color
☐ Black ☐ Brown ☐ Blonde ☐ Gray ☐ White ☐ Red ☐ Sandy ☐ Bald (No Hair)

F. Eye color
☐ Brown ☐ Blue ☐ Green ☐ Hazel ☐ Gray ☐ Black ☐ Pink ☐ Maroon ☐ Other

Part 6. Information About Your Residence and Employment

A. Where have you lived during the last 5 years? Begin with where you live now and then list every place you lived for the last 5 years. If you need more space, use a separate sheet of paper.

Street Number and Name, Apartment Number, City, State, Zip Code and Country	Dates *(Month/Year)*	
	From	To
Current Home Address - Same as Part 4.A	_ _/_ _ _ _	Present
	_ _/_ _ _ _	_ _/_ _ _ _
	_ _/_ _ _ _	_ _/_ _ _ _
	_ _/_ _ _ _	_ _/_ _ _ _
	_ _/_ _ _ _	_ _/_ _ _ _

B. Where have you worked (or, if you were a student, what schools did you attend) during the last 5 years? Include military service. Begin with your current or latest employer and then list every place you have worked or studied for the last 5 years. If you need more space, use a separate sheet of paper.

Employer or School Name	Employer or School Address *(Street, City and State)*	Dates *(Month/Year)*		Your Occupation
		From	To	
		_ _/_ _ _ _	_ _/_ _ _ _	
		_ _/_ _ _ _	_ _/_ _ _ _	
		_ _/_ _ _ _	_ _/_ _ _ _	
		_ _/_ _ _ _	_ _/_ _ _ _	
		_ _/_ _ _ _	_ _/_ _ _ _	

Part 7. Time Outside the United States
(Including Trips to Canada, Mexico, and the Caribbean Islands)

Write your INS "A"- number here:
A ___ ___ ___ ___ ___ ___ ___ ___ ___

A. How many total days did you spend outside of the United States during the past 5 years (Count days on all trips that lasted 24 hours or more). [ ] days

B. How many trips of 24 hours or more have you taken outside of the United States during the past 5 years? [ ] trips

C. List below all the trips of 24 hours or more that you have taken outside of the United States since becoming a Lawful Permanent Resident. Begin with your most recent trip. If you need more space, use a separate sheet of paper.

Date You Left the United States *(Month/Day/Year)*	Date You Returned to the United States *(Month/Day/Year)*	Did Trip Last 6 Months or More?	Countries to Which You Traveled	Total Days Out of the United States
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		
___/___/_____	___/___/_____	☐ Yes ☐ No		

Part 8. Information About Your Marital History

A. How many times have you been married (including annulled marriages)? [ ] If you have NEVER been married, go to Part 9.

B. If you are now married, give the following information about your spouse:

1. Spouse's Family Name *(Last Name)* [ ] Given Name *(First Name)* [ ] Full Middle Name *(if applicable)* [ ]

2. Date of Birth *(Month/Day/Year)* ___/___/_____

3. Date of Marriage *(Month/Day/Year)* ___/___/_____

4. Spouse's Social Security Number ___-__-____

5. Home Address - Street Number and Name [ ] Apartment Number [ ]

City [ ] State [ ] ZIP Code [ ]

Part 8. Information About Your Marital History *(Continued)*

Write your INS "A"- number here:
A __ __ __ __ __ __ __ __ __

C. Is your spouse a U.S. citizen? ☐ Yes ☐ No

D. If your spouse is a U.S. citizen, give the following information:

1. When did your spouse become a U.S. citizen? ☐ At Birth ☐ Other

If "Other," give the following information:

2. Date your spouse became a U.S. citizen
__/__/__

3. Place your spouse became a U.S. citizen *(please see Instructions)*

City and State

E. If your spouse is NOT a U.S. citizen, give the following information :

1. Spouse's Country of Citizenship

2. Spouse's INS "A"- Number *(If applicable)*
A__ __ __ __ __ __ __ __ __

3. Spouse's Immigration Status
☐ Lawful Permanent Resident ☐ Other _____

F. If you were married before, provide the following information about your prior spouse. If you have more than one previous marriage, use a separate sheet of paper to provide the information requested in questions 1-5 below.

1. Prior Spouse's Family Name *(Last Name)* | Given Name *(First Name)* | Full Middle Name *(if applicable)*

2. Prior Spouse's Immigration Status
☐ U.S. Citizen
☐ Lawful Permanent Resident
☐ Other _____

3. Date of Marriage *(Month/Day/Year)*
__/__/__

4. Date Marriage Ended *(Month/Day/Year)*
__/__/__

5. How Marriage Ended
☐ Divorce ☐ Spouse Died ☐ Other _____

G. How many times has your current spouse been married (including annulled marriages)? ☐

If your spouse has EVER been married before, give the following information about your spouse's prior marriage.
If your spouse has more than one previous marriage, use a separate sheet of paper to provide the information requested in questions 1 - 5 below.

1. Prior Spouse's Family Name *(Last Name)* | Given Name *(First Name)* | Full Middle Name *(if applicable)*

2. Prior Spouse's Immigration Status
☐ U.S. Citizen
☐ Lawful Permanent Resident
☐ Other _____

3. Date of Marriage *(Month/Day/Year)*
__/__/__

4. Date Marriage Ended *(Month/Day/Year)*
__/__/__

5. How Marriage Ended
☐ Divorce ☐ Spouse Died ☐ Other _____

Part 9. Information About Your Children

Write your INS "A"- number here:
A __ __ __ __ __ __ __ __ __ .

A. How many sons and daughters have you had? For more information on which sons and daughters you should include and how to complete this section, see the Instructions. ☐

B. Provide the following information about all of your sons and daughters. If you need more space, use a separate sheet of paper.

Full Name of Son or Daughter	Date of Birth *(Month/Day/Year)*	INS "A"- number *(if child has one)*	Country of Birth	Current Address *(Street, City, State & Country)*
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		
	__/__/____	A_____		

Part 10. Additional Questions

Please answer questions 1 through 14. If you answer "Yes" to any of these questions, include a written explanation with this form. Your written explanation should (1) explain why your answer was "Yes," and (2) provide any additional information that helps to explain your answer.

A. General Questions

1. Have you **EVER** claimed to be a U.S. citizen *(in writing or any other way)?* ☐ Yes ☐ No
2. Have you **EVER** registered to vote in any Federal, state, or local election in the United States? ☐ Yes ☐ No
3. Have you **EVER** voted in any Federal, state, or local election in the United States? ☐ Yes ☐ No
4. Since becoming a Lawful Permanent Resident, have you **EVER** failed to file a required Federal, state, or local tax return? ☐ Yes ☐ No
5. Do you owe any Federal, state, or local taxes that are overdue? ☐ Yes ☐ No
6. Do you have any title of nobility in any foreign country? ☐ Yes ☐ No
7. Have you ever been declared legally incompetent or been confined to a mental institution? ☐ Yes ☐ No

Part 10. Additional Questions *(Continued)*

Write your INS "A"- number here:
A __ __ __ __ __ __ __ __ __

B. Affiliations

8. a. Have you **EVER** been a member of or associated with any organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place? ☐ Yes ☐ No

b. If you answered "Yes," list the name of each group below. If you need more space, attach the names of the other group(s) on a separate sheet of paper.

Name of Group	Name of Group
1.	6.
2.	7.
3.	8.
4.	9.
5.	10.

9. Have you **EVER** been a member of or in any way associated *(either directly or indirectly)* with:

a. The Communist Party? ☐ Yes ☐ No

b. Any other totalitarian party? ☐ Yes ☐ No

c. A terrorist organization? ☐ Yes ☐ No

10. Have you **EVER** advocated *(either directly or indirectly)* the overthrow of any government by force or violence? ☐ Yes ☐ No

11. Have you **EVER** persecuted *(either directly or indirectly)* any person because of race, religion, national origin, membership in a particular social group, or political opinion? ☐ Yes ☐ No

12. Between March 23, 1933, and May 8, 1945, did you work for or associate in any way *(either directly or indirectly)* with:

a. The Nazi government of Germany? ☐ Yes ☐ No

b. Any government in any area (1) occupied by, (2) allied with, or (3) established with the help of the Nazi government of Germany? ☐ Yes ☐ No

c. Any German, Nazi, or S.S. military unit, paramilitary unit, self-defense unit, vigilante unit citizen unit, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, or transit camp? ☐ Yes ☐ No

C. Continuous Residence

Since becoming a Lawful Permanent Resident of the United States:

13. Have you **EVER** called yourself a "nonresident" on a Federal, state, or local tax return? ☐ Yes ☐ No

14. Have you **EVER** failed to file a Federal, state, or local tax return because you considered yourself to be a "nonresident"? ☐ Yes ☐ No

Part 10. Additional Questions (Continued)

Write your INS "A"- number here:
A ___ ___ ___ ___ ___ ___ ___ ___ ___

D. Good Moral Character

For the purposes of this application, you must answer "Yes" to the following questions, if applicable, even if your records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record.

15. Have you **EVER** committed a crime or offense for which you were NOT arrested? ☐ Yes ☐ No

16. Have you **EVER** been arrested, cited, or detained by any law enforcement officer (including INS and military officers) for any reason, including traffic violations? ☐ Yes ☐ No

17. Have you **EVER** been charged with committing any crime or offense? ☐ Yes ☐ No

18. Have you **EVER** been convicted of a crime or offense? ☐ Yes ☐ No

19. Have you **EVER** been placed in an alternative sentencing or a rehabilitative program (for example: diversion, deferred prosecution, withheld adjudication, deferred adjudication?) ☐ Yes ☐ No

20. Have you **EVER** received a suspended sentence, been placed on probation, or been paroled? ☐ Yes ☐ No

21. Have you **EVER** been in jail or prison? ☐ Yes ☐ No

If you answered "Yes" to any of questions 15 through 21, complete the following table. If you need more space, use a separate sheet of paper to give the same information.

Why were you arrested, cited, detained, or charged?	Date arrested, cited, detained, or charged *(Month/Day/Year)*	Where were you arrested, cited, detained or charged? *(City, State, Country)*	Outcome or disposition of the arrest, citation, detention or charge *(no charges filed, charges dismissed, jail, probation, etc)*

Answer questions 22 through 33. If you answer "Yes" to any of these questions, attach (1) your written explanation why your answer was "Yes," and (2) any additional information or documentation that helps explain your answer.

22. Have you **EVER:**

a. been a habitual drunkard? ☐ Yes ☐ No

b. been a prostitute, or procured anyone for prostitution? ☐ Yes ☐ No

c. sold or smuggled controlled substances, illegal drugs or narcotics? ☐ Yes ☐ No

d. been married to more than one person at the same time? ☐ Yes ☐ No

e. helped anyone enter or try to enter the United States illegally? ☐ Yes ☐ No

f. gambled illegally or received income from illegal gambling? ☐ Yes ☐ No

g. failed to support your dependents or to pay alimony? ☐ Yes ☐ No

23. Have you **EVER** given false or misleading information to any U.S. government official while applying for any immigration benefit or to prevent deportation, exclusion, or removal? ☐ Yes ☐ No

24. Have you **EVER** lied to any U.S. government official to gain entry or admission into the United States? ☐ Yes ☐ No

Part 10. Additional Questions *(Continued)*

Write your INS "A"- number here:
A __ __ __ __ __ __ __ __ __

E. Removal, Exclusion, and Deportation Proceedings

25. Are removal, exclusion, rescission or deportation proceedings pending against you? ☐ Yes ☐ No

26. Have you **EVER** been removed, excluded, or deported from the United States? ☐ Yes ☐ No

27. Have you **EVER** been ordered to be removed, excluded, or deported from the United States? ☐ Yes ☐ No

28. Have you **EVER** applied for any kind of relief from removal, exclusion, or deportation? ☐ Yes ☐ No

F. Military Service

29. Have you **EVER** served in the U.S. Armed Forces? ☐ Yes ☐ No

30. Have you **EVER** left the United States to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☐ No

31. Have you **EVER** applied for any kind of exemption from military service in the U.S. Armed Forces? ☐ Yes ☐ No

32. Have you **EVER** deserted from the U.S. Armed Forces? ☐ Yes ☐ No

G. Selective Service Registration

33. Are you a male who lived in the United States at any time between your 18th and 26th birthdays in any status except as a lawful nonimmigrant? ☐ Yes ☐ No

If you answered "NO", go on to question 34.

If you answered "YES", provide the information below.

If you answered "YES", but you did NOT register with the Selective Service System and are still under the age of 26, you must register before you apply for naturalization, so that you can complete the information below:

Date Registered (Month/Day/Year) [ ] Selective Service Number [__/__/____]

If you answered "YES", but you did NOT register with the Selective Service and you are now 26 years old or older, attach a statement explaining why you did not register.

H. Oath Requirements *(See Part 14 for the text of the oath)*

Answer questions 34 through 39. If you answer "No" to any of these questions, attach (1) your written explanation why the answer was "No" and (2) any additional information or documentation that helps to explain your answer.

34. Do you support the Constitution and form of government of the United States? ☐ Yes ☐ No

35. Do you understand the full Oath of Allegiance to the United States? ☐ Yes ☐ No

36. Are you willing to take the full Oath of Allegiance to the United States? ☐ Yes ☐ No

37. If the law requires it, are you willing to bear arms on behalf of the United States? ☐ Yes ☐ No

38. If the law requires it, are you willing to perform noncombatant services in the U.S. Armed Forces? ☐ Yes ☐ No

39. If the law requires it, are you willing to perform work of national importance under civilian direction? ☐ Yes ☐ No

Part 11. Your Signature

Write your INS "A"- number here:
A __ __ __ __ __ __ __ __ __

I certify, under penalty of perjury under the laws of the United States of America, that this application, and the evidence submitted with it, are all true and correct. I authorize the release of any information which INS needs to determine my eligibility for naturalization.

Your Signature

Date *(Month/Day/Year)*
__/__/__ __ __ __

Part 12. Signature of Person Who Prepared This Application for You *(if applicable)*

I declare under penalty of perjury that I prepared this application at the request of the above person. The answers provided are based on information of which I have personal knowledge and/or were provided to me by the above named person in response to the *exact questions* contained on this form.

Preparer's Printed Name

Preparer's Signature

Date *(Month/Day/Year)*
__/__/__ __ __ __

Preparer's Firm or Organization Name *(if applicable)*

Preparer's Daytime Phone Number
( )

Preparer's Address - Street Number and Name

City

State

ZIP Code

Do Not Complete Parts 13 and 14 Until an INS Officer Instructs You To Do So

Part 13. Signature at Interview

I swear (affirm) and certify under penalty of perjury under the laws of the United States of America that I know that the contents of this application for naturalization subscribed by me, including corrections numbered 1 through____ and the evidence submitted by me numbered pages 1 through ____, are true and correct to the best of my knowledge and belief.

Subscribed to and sworn to (affirmed) before me

Complete Signature of Applicant

Officer's Signature

Officer's Printed Name or Stamp

Date *(Month/Day/Year)*

Part 14. Oath of Allegiance

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen;
that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic;
that I will bear true faith and allegiance to the same;
that I will bear arms on behalf of the United States when required by the law;
that I will perform noncombatant service in the Armed Forces of the United States when required by the law;
that I will perform work of national importance under civilian direction when required by the law; and
that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

Printed Name of Applicant

Complete Signature of Applicant

[FR Doc. 00–27588 Filed 10–25–00; 8:45 am]
BILLING CODE 4410–10–C

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Arrival record.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 7, 2000 at 65 FR 48252, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 27, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Room 10235, Washington, DC 20530; Attention: Lauren Wittenberg, Department of Justice Desk Officer; 202–395–4318.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement of previously approved collection.

(2) *Title of the form/collection:* Arrival Record.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–94 AOT, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is captured electronically as part of a pilot program established by the Service in cooperation with two participating carriers to streamline document handling and data processing. The information collected will be used by the Service to document an alien's arrival and departure to and from the United States and may be evidence of registration under certain provisions of the INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 3 minutes (.05 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,250 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: October 19, 2000.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 00–27591 Filed 10–25–00; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,996]

Consolidated Metco, Inc., Rivergate Plant, Portland, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 21, 2000, in response to a worker petition which was filed by the International Association of Machinists and Aerospace Workers, Lodge 1432, on behalf of workers at Consolidated Metco, Inc., Rivergate Plant, Portland, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 12th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27570 Filed 10–25–00; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,984]

Nippers Workshop, Inc., Benton, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 24, 2000, in response to a petition filed on the same date on behalf of workers at Nippers Workshop, Inc., Benton, Illinois.

The Department of Labor has been unable to locate an official of the company to provide the information necessary to render a trade adjustment assistance determination. Consequently, the Department of Labor cannot conduct an investigation to make a determination as to whether the workers are eligible for adjustment assistance benefits under the Trade Act of 1974. Therefore, further investigation in this

matter would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27573 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,013]

Robert Bosch Corporation, Hendersonville, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 28, 2000 in response to a worker petition which was dated on August 3, 2000 on behalf of workers at Robert Bosch Corporation, Hendersonville, Tennessee.

An active certification covering the petitioning group of workers remains in effect (TA–W–36,523). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27572 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,137]

Vincennces Industries, Vincennces, IN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 2, 2000, in response to a petition filed on behalf on workers at Vincennces Manufacturing, Vincennces, Indiana.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued Vincennces Manufacturing, Vincennces, Indiana (TA–W–37,960). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27574 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address show below, not later than November 6, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 6, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 10th day of October 2000.

Linda G. Poole,

Acting Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/10/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,179	Wexco Corporation (Wkrs)	Lynchburg, VA	09/22/2000	Bi-Mettalic Cylinders.
38,180	Northern Cap (Wkrs)	Little Falls, MN	09/25/2000	Hats.
38,181	PPG Industries (USWA)	Springdale, PA	09/28/2000	Coatings and Resins.
38,182	Cox Target Media Sales (Co.)	Washington, DC	09/27/2000	Carton Samples, Overwrapped Samples.
38,183	Seagate Technology (Wkrs)	Oklahoma City, OK	09/22/2000	Hard Disc Drives for Computers.
38,184	JB Sportswear (Co.)	Union, MS	09/22/2000	Knit Placket Shirts.

APPENDIX—Continued

[Petitions instituted on 10/10/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
38,185	GP Timber, Inc (Co.)	Medford, OR	09/20/2000	Sawlogs.
38,186	Nine West Distribution (Co.)	Cincinnati, OH	09/27/2000	Ladies' Fashion Footwear.
38,187	Talon, Inc (Wkrs)	Commerce, CA	09/25/2000	Metal Zippers.
38,188	Supply One (Wkrs)	Klamath Falls, OR	09/22/2000	Lumber and Steel Products.
38,189	Ametek US Guage (IAMAW)	Sellersville, PA	09/22/2000	Components for Compressed Gas Gages.
38,190	Lumart (Co.)	Brooklyn, NY	09/22/2000	Bridal Accessories.
38,191	Windfall Products (Wkrs)	St. Marys, PA	09/22/2000	Automobile Products.
38,192	Metal Powder (IAMAW)	Logan, OH	09/25/2000	Casting Molds.
38,193	Contract Apparel (Wkrs)	El Paso, TX	09/26/2000	Inspect, Repair, Pack Lycra Pants.
38,194	Covington Industries (Wkrs)	Opp, AL	09/25/2000	Outerwear Apparel.
38,195	Nova Bus, Inc. (Co.)	Roswell, NM	08/15/2000	Transit Buses.
38,196	Gadsden Machine & Roll (Wkrs)	Gadsden, AL	09/29/2000	Steel Mill Repairs.

[FR Doc. 00–27571 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,073]

Wolverine World Wide, Inc., Rockford, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 11, 2000 in response to a worker petition which was filed on behalf of workers at Wolverine World Wide, Incorporated, Rockford, Michigan.

The investigation revealed that an active certification covering the petitioning group of workers remains in effect (TA–W–35,149). That certification expires on January 25, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 12th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27569 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—04130]

Brown Wooten Mills, Inc., Ballston Plant, Mount Airy, NC; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 14, 2000, in response to a petition filed on behalf of workers at Brown Wooten Mills, Inc., Ballston Plant, Mount Airy, North Carolina.

The petitioner has requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 10th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27568 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04020]

Thomson Consumer Electronic, Incorporated, A.T.O. Division, Dunmore, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of October 6, 2000, the company requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to

Apply for NAFTA-Transitional Adjustment Assistance applicable to workers of the subject firm. The denial notice was signed on August 15, 2000, and published in the **Federal Register** on September 12, 2000 (65 FR 55050).

The petitioner presents evidence that the Department's survey of the company's customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 17th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27567 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4145]

Wolverine World Wide, Inc., Rockford, MI; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 21, 1999 in response to a petition filed on behalf of workers at Wolverine World Wide, Incorporated, Rockford, Michigan.

An active certification covering the petitioning group of workers remains in effect (NAFTA–2668), which expires on January 25, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of October 2000.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 00–27566 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of the following information collection: Notice of Issuance of Insurance Policy, CM–921. Copies of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 26, 2000.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

Section 423 of the Black Lung Benefits Act, as amended, specifies that a responsible coal mine operator must be insured for payment of black lung benefits and outlines the items each contract of insurance must contain. It enumerates the civil penalties to which a responsible coal mine operator is subject, should these procedures not be followed. Further, 20 CFR Ch. VI subpart C, 726.208–213 requires that each insurance carrier report to the Division of Coal Mine Workers' Compensation (DCMWC) each policy and endorsement issued, cancelled, or reviewed with respect to responsible operators, on such a form as DCMWC may require. The CM–921 is the form completed by the insurance carrier and forwarded to DCMWC for review.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to identify operators who have secured insurance for payment of black lung benefits as required by the Act.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Notice of Issuance of Insurance Policy.

OMB Number: 1215–0059.

Agency Number: CM–921.

Affected Public: Business or other for-profit; State, Local or Tribal Government.

Total Respondents: 6/54.

Frequency: Annually.

Total Responses: 3,200/800.

Time per Response: 10 minutes.

Estimated Total Burden Hours: 667.

Total Burden Cost: (capital/startup): $0.

Total Burden Cost: (operating/maintenance): $1,640.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 20, 2000.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 00–27565 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–48–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification; D&A Resources, Inc., etc.

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. D & A Resources, Inc.

[Docket No. M–2000–122–C]

D & A Resources, Inc., 915 Main Street, Rainelle, West Virginia 25962 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 1 Mine (I.D. No. 46–07781) located in Fayette County, West Virginia. The petitioner proposes to use a threaded ring and a spring loaded device on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidently disengaging while under load, instead of using a padlock. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners.

2. Dominion Coal Corporation

[Docket No. M–2000–123–C]

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.204(a) (roof bolting) to its No. 16 Mine (I.D. No. 44–06643), Mine No. 22 (I.D. No. 44–06645), No. 34 Mine (I.D. No. 44–06839), and No. 36 Mine (I.D. No. 44–06759) all located in Buchanan County, Virginia. The petitioner proposes to use special purpose roof bolts that meet the requirements of ASTM F432–83 and ASTM F432–88, instead of using ASTM F432–95 roof bolts. The petitioner asserts that the proposed alternative method would not result in a diminution of safety to the miners and would provide at least the same measure of protection as the existing standard.

3. Parkwood Resources, Inc.

[Docket No. M–2000–124–C]

Parkwood Resources, Inc., 25 North Ridge Road, Shelocta, Pennsylvania 15774 has filed a petition to modify the application of 30 CFR 75.1100–2(e)(2) (quantity and location of firefighting equipment) to its Parkwood Mine (I.D. No 36–08785) located in Armstrong County, Pennsylvania. The petitioner proposes to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Snyder Coal Company

[Docket No. M–2000–125–C]

Snyder Coal Company, 66 Snyder Lane, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Rattling Run Slope (I.D. No. 36–08713) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the existing standard to allow bar and pin, or link and pin couplers to be used on its underground haulage equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Three W–M Coal Company

[Docket No. M–2000–126–C]

Three W–M Coal Company, P.O. Box 602, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Orchard Slope Mine (I.D. No. 36–08806) located in Schuylkill County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead use increased rope strength and secondary safety rope connection in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Blue Mountain Energy, Inc.

[Docket No. M–2000–127–C]

Blue Mountain Energy, Inc., 3607 Co. Rd. 65, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Deserado Mine (I.D. No. 05–03505) located in Rio Blanco County, Colorado. The petitioner requests a modification of the standard to allow a carbon monoxide monitoring system to be installed in the belt entry and primary escapeway as an early warning fire detection system during two-entry longwall development. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Girdner Mining Company, Inc.

[Docket No. M–2000–128–C]

Girdner Mining Company, Inc., P.O. Box 1328, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.380(f)(4) (escapeways; bituminous and lignite mines) to its Mine No. 1 (I.D. No. 15–17288) located in Knox County, Kentucky. The petitioner proposes to use one twenty- or two ten-pound portable chemical fire extinguishers on each Mescher Jeep. The fire extinguishers will be readily accessible to the equipment operator. The petitioner proposes to instruct the equipment operator to inspect each fire extinguisher daily prior to entering the mine, replace all defective fire extinguishers before entering the mine, and maintain records of all inspections of the fire extinguishers. The petitioner asserts that because of the low 24 inch heights of the coal seam, available fire suppression systems will not fit on the equipment being used at the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Girdner Mining Company, Inc.

[Docket No. M–2000–129–C]

Girdner Mining Company, Inc., P.O. Box 1238, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its Mine No. 1 (I.D. No. 15–17288) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous-duty methane and oxygen indicators on three-wheel tractors with drag bottom buckets instead of using machine mounted monitors. The petitioner asserts that application of the standard would reduce the safety of the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Magic Coal Company

[Docket No. M–2000–130–C]

Magic Coal Company, P.O. Box 1352, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) to its Magic Mine (I.D. No. 15–17071) located in Hopkins County, Kentucky. The petitioner proposes to use a spring-loaded device with specific fastening characteristics instead of a padlock to secure plugs and electrical type connectors to batteries and permissible mobile powered equipment to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. Mountain Coal Company, L.L.C.

[Docket No. M–2000–131–C]

Mountain Coal Company, P.O. Box 591, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its West Elk Mine (I.D. No. 05–03672) located in Gunnison County, Colorado. The petitioner proposes to use high-voltage (2,400 volt) cables within 150 feet of pillar workings for continuous miners. The petitioner has listed specific terms and conditions in this petition for using high-voltage cables. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Blue Mountain Energy, Inc.

[Docket No. M–2000–132–C]

Blue Mountain Energy, Inc., 3607 Co. Rd. 65, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.352 (return air courses) to its Deserado Mine (I.D. No. 05–03505) located in Rio Blanco County, Colorado. The petitioner requests a modification of the standard to allow a carbon monoxide monitoring system to be installed in the belt entry and primary escapeway as an early warning fire detection system during two-entry longwall development. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. Peabody Coal Company

[Docket No. M–2000–133–C]

Peabody Coal Company, 1951 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Camp #11 Mine (I.D. No. 15–08357) located in Union County, Kentucky. The petitioners proposes to use a spring-loaded metal locking device to secure battery connecting plugs to machine-mounted batter receptacles on permissible mobile battery-powered scoop cars and tractors to prevent the cable plug from inadvertently disengaging from the receptacle, instead of using padlocks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

13. Aracoma Coal Company

[Docket No. M–2000–134–C]

Aracoma Coal Company, P.O. Box 470, Stollings, West Virginia 25646 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Aracoma Alma Mine No. 1 (I.D. No. 46–08801) located in Logan County, West Virginia. The petitioner proposes to use a 4,160 volt high-voltage longwall mining system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

14. Echo Bay Minerals Company, Kettle River Operations

[Docket No. M–2000–009–M]

Echo Bay Minerals Company, Kettle River Operations, 363 Fish Hatchery Road, Republic, Washington 99166 has filed a petition to modify the application of 30 CFR 49.8 (training for mine rescue teams) to its Lamefoot Mine (I.D. No. 45–03265) and K–2 Mine (I.D. No. 45–03336) located in Ferry County, Washington. The petitioner requests a modification of the existing standard to allow the company to participate in the Central Mine Rescue (CMR) of Wallace, Idaho, which consists of four training sessions per year, once per quarter, for the team in addition to Annual Refresher and Competition training. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitioners are encouraged to submit comments via e-mail to "comments@msha.gov," or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 27, 2000. Copies of these petitioners are available for inspection at that address.

Dated: October 18, 2000.

Carol J. Jones,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 00–27535 Filed 10–25–00; 8:45 am]

BILLING CODE 4510–43–U

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

TYPE: Quarterly meeting.

AGENCY: National Council On Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (Pub. L. 94–409).

QUARTERLY MEETING DATES: December 4–6, 2000, 8:30 a.m. to 5 p.m.

LOCATION: San Diego Marriott Hotel & Marina, 333 West Harbor Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspect of society.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the National Council on Disability prior to this meeting.

ENVIRONMENTAL ILLNESS: People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this

meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of your room. Smoking is prohibited in the meeting room and surrounding area.

OPEN MEETING: This quarterly meeting of the National Council on Disability will be open to the public.

AGENDA: The proposed agenda includes:

Reports from the Chairperson and the Executive Director
Committee Meetings and Committee Reports
Executive Session (closed)
Unfinished Business
New Business
Announcements
Adjournment

Records will be kept of all National Council on Disability proceedings and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on October 23, 2000.

Ethel D. Briggs,

Executive Director.

[FR Doc. 00–27623 Filed 10–23–00; 4:47 pm]

BILLING CODE 6820–MA–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189)

Date and Time: November 20–21, 2000; 8:00am–5:00pm

Place: National Science Foundation, 4201 Wilson Blvd, Rooms 310 and 330, Arlington, VA

Type of Meeting: Closed

Contact Person: Sohi Rastegar, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8320.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals received under the Faculty Early Career Development (CAREER) Program (Announcement Number NSF 00–89), as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–27541 Filed 10–25–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Civil and Mechanical Systems:

Date and Time: November 15, 2000, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA.

Contact Person: Dr. Jorn Larsen-Basse, Program Director Surface Engineering and Material Design, Division of Civil and Mechanical Systems, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. Telephone: (703) 292–8360.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel as part of the selection process for awards.

Date and Time: December 4, 2000, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 630, Arlington, VA.

Contact Person: Dr. Ken Chong, Program Director Mechanics and Structures of Materials, Division of Civil and Mechanical Systems, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. Telephone: (703) 292–8360.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel as part of the selection process for awards.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–27543 Filed 10–25–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electric and Communications Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Electrical and Communications Systems (1196):

Date/Time: November 13, 2000, 8:30 am–5 pm.

Agenda: To review and evaluate CAREER (MEMS) proposals submitted in response to program announcement (NSF 00–89).

Date: November 14, 2000, 8:30 am–5 pm.

Agenda: To review and evaluate CAREER (Photonics) proposal submitted in response to program announcement (NSF 00–89).

Place: 4201 Wilson Boulevard, Suite 680, Arlington, VA.

Contact: Dr. Filbert Bartoli, Program Director, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 292–8339.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–27542 Filed 10–25–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Mathematical Sciences (1204).

Date and Time: December 11–13; 8:30 a.m. until 5 p.m.

Place: Rooms 310, 360, 370, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Drs. Keith N. Crank, William B. Smith, and John Stufken Program Directors, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8870.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Statistics & Probability Program, as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–27544 Filed 10–25–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Physics (1208):

Date/Time: November 8–9, 2000; 8 a.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 330 and 1005, Arlington, VA.

Contact Person: Dr. Marvin Goldberg, Program Director for Elementary Particle Physics, Division of Physics, National Science Foundation, 4201 Wilson Boulevard, Room 1015, Arlington, VA 22230. Telephone: (703) 292–7374.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Elementary Particle Physics Program for the Rare Symmetry Violating Processes on major project costs of proposals submitted to NSF for financial support.

Date/Time: November 14, 2000; 9 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1105, Arlington, VA.

Contact Person: Dr. Boris Kayser, Program Director for Theoretical Physics, Division of Physics, National Science Foundation, 4201 Wilson Boulevard, Room 1015, Arlington, VA 22230. Telephone: (703) 292–7376.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Theoretical Physics Program for financial support.

Date/Time: November 28–30, 2000; 8 a.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 370 and 970, Arlington, VA.

Contact Person: Dr. Marvin Goldberg, Program Director for Elementary Particle Physics, Division of Physics, National Science Foundation, 4201 Wilson Boulevard, Room 1015, Arlington, VA 22230. Telephone: (703) 292–7374.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Elementary Particle Physics Program for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–27545 Filed 10–25–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Operations Inc. (the licensee), to withdraw its August 4, 1999, application for proposed amendment to Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed change would have primarily modified Technical Specification (TS) 3.5.2 to extend the allowed outage time to seven days for one high pressure safety injection train inoperable and TS 3.5.3 to change the end-state to HOT SHUTDOWN with at least one OPERABLE shutdown cooling train in operation.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 26, 2000 (65 FR 4277). However, by letter dated April 20, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 4, 1999, and the licensee's letter dated April 20, 2000, which withdrew the application for license amendment. These documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room).

Dated at Rockville, Maryland, this 18th day of October 2000.

For the Nuclear Regulatory Commission.

N. Kalyanam,

Project Manager, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–27510 Filed 10–25–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Operations Inc. (the licensee), to withdraw its May 28, 1998, application, as supplemented, for proposed amendment to Facility Operating License No. NPF–38 for the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would have modified facility Technical Specification 3.7.1.2 and Surveillance Requirement 4.7.1.2 for the emergency feedwater system.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 14, 1998 (63 FR 59593). However, by letter dated September 20, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 28, 1998, as supplemented by letters dated January 31 and July 27, 2000, and the licensee's letter dated September 20, 2000, which withdrew the application for license amendment. These documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records

will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room).

Dated at Rockville, Maryland, this 18th day of October 2000.

For the Nuclear Regulatory Commission.

N. Kalyanam,

Project Manager, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–27512 Filed 10–25–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458]

Entergy Gulf States, Inc., et al.; Notice of Issuance of Amendment to River Bend Station, Unit 1, Facility Operating License NPF–47

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 114 to Facility Operating License No. NPF–47 issued to Entergy Gulf States, Inc. and Entergy Operations, Inc. (EOI, or the licensee), which revised the Technical Specifications for operation of the River Bend Station, Unit 1, located in Saint Francisville, Louisiana. The amendment is effective as of the date of issuance and shall be implemented no later than the start-up following the next refueling outage.

The amendment modified the Technical Specifications to increase the maximum allowable thermal power from 2894 megawatts thermal (MWt) to 3039 MWt.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on June 14, 2000 (65 FR 37413). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (65 FR 58298).

For further details with respect to the action see (1) the application for amendment dated July 30, 1999, as supplemented by letters dated April 3, May 9, July 18, and August 24, and October 2, 2000, (2) Amendment No. 114 to License No. NPF–47, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 6th day of October 2000.

Jefferey F. Harold,

Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–27511 Filed 10–25–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

SES Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the OPM Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Mark Reinhold, Office of Human Resources and EEO, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, (202) 606–1882.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

Office of Personnel Management.

Janice R. Lachance,

Director.

The following have been designated as regular members of the Performance Review Board of the Office of Personnel Management:

John U. Sepulveda, Deputy Director
Mark Hunker, Chief of Staff
William E. Flynn, Associate Director
Henry Romero, Associate Director
Richard A. Ferris, Associate Director
Steven R. Cohen, Associate Director
Carol J. Okin, Associate Director
Emzell Blanton, Jr., Director, Office of Workforce Relations
Kirke Harper, Director of Human Resources and EEO

[FR Doc. 00–27467 Filed 10–25–00; 8:45 am]

BILLING CODE 6325–01–P

RAINROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Application to Act as Representative Payee; OMB 3220–0052. Under Section 12 of the Railroad Retirement Act, the Railroad Retirement Board (RRB) may pay benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or is a minor. A representative payee may be a court-appointed guardian, a statutory conservator or an individual selected by the RRB. The procedures pertaining to the appointment and responsibilities of a representative payee are prescribed in 20 CFR part 266.

The forms furnished by the RRB to apply for representative payee status,

and for securing the information needed to support the application follow. RRB Form AA–5, Application for Substitution of Payee, obtains information needed to determine the selection of a representative payee who will serve in the best interest of the beneficiary. RRB Form G–478, Statement Regarding Patient's Capability to Manage Payments, obtains information about an annuitant's capability to manage payments. The form is completed by the annuitant's personal physician or by a medical officer, if the annuitant is in an institution. It is not required when a court has appointed an individual or institution to manage the annuitant's funds or, in the absence of such appointment, when the annuitant is a minor. The RRB also provides representative payees with a booklet at the time of their appointment. The booklet, RRB Form RB–5, Your Duties as Representative Payee-Representative Payee's Record, advises representative payees of their responsibilities under 20 CFR 266.9 and provides a means for the representative payee to maintain records pertaining to the receipt and use of RRB benefits. The booklet is provided for the representative payee's convenience. The RRB also accepts records that were kept by representative payee's as part of a common business practice.

Completion is voluntary. One response is requested of each respondent. The RRB is proposing non-burden impacting editorial changes to Forms AA–5 and G–478. No other changes are proposed. The estimated completion time is estimated at 17 minutes for FORM AA–5, 6 minutes for Form G–478 and 60 minutes for Booklet RB–5. The RRB estimates that approximately 3,000 Form AA–5's 2,000 Form G–478's and 15,300 RB–5's are completed annually.

The renewal of this information collection will continue the RRB's initiative to consolidate information collections by major functional areas. The purpose of the initiative is to bring related collection instruments together in one collection, better manage the instruments, and prepare for the electronic collection of this information. (A collection instrument can be an individual form, electronic collection, interview, or any other method that collects specific information from the public.)

As part of the OMB renewal process, the RRB also proposes that this collection (OMB 3220–0052), Application to Act as Representative Payee, be renamed Continuing RRA Entitlement. Upon approval by OMB, the RRB intends to merge the following OMB approved-related collection into this collection by the expected expiration date(s).

OMB collection No.	Title	RRB forms	Expected expiration date
3220–0107 ...	Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings	RL–231–F	1/31/2003
3220–0145 ...	Non-Resident Questionnaire	RRB–1001	6/30/2003
3220–0149 ...	Withholding Certificate for Railroad Retirement Monthly Annuity Payments	RRB–W–4P	5/31/2001
3220–0151 ...	Representative Payee Monitoring	G–99A, G–99C	7/31/2001
3220–0169 ...	Repayment of Debt	G–421F	6/30/2003
3220–0176 ...	Representative Payee Parental Custody Monitoring	G–19D	5/31/2002
3220–0178 ...	Aged Monitoring Questionnaire	G–19C	7/31/2002
3220–0179 ...	Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment	G–19L	8/31/2002
3220–0183 ...	Statement of Claimant or Other Person	G–93	9/30/2003
3220–0184 ...	Earnings Information Request	G–19–F	7/31/2001

Revisions to existing collection instruments and, occasionally, a new instrument related to this program function may be required during the three-year cycle of this information collection.

The RRB currently estimates the completion time for Form RL–231–F, Request to Non-Railroad Employer For information About Annuitant's Work and Earnings, at 30 minutes; Form RRB–1001, Nonresident Questionnaire, at 3 to 5 minutes; Form RRB–W–4P, Withholding Certificate for Railroad Retirement Payments at 109 minutes; Form G–99A, Representative Payee Report, at 20 minutes; Form G–99C, Representative Payee Evaluation Report at 24–31 minutes; Form G–421F, Repayment by Credit Card, at 5 minutes; Form G–19D, Parental Custody Report, at 5 minutes; Form G–19C, Aged Monitoring Questionnaire at 6 minutes; Form G–19L, Annual Earnings Questionnaire for Annuitants in Last Person Service, at 15 minutes; Form G–93, Statement of Claimant or Other Person, at 15 minutes; and Form G–19–F, Earnings Information Request at 8 minutes. After the last information collection is merged and other necessary adjustments are made, the resultant information collection is expected to total approximately 21,437 total burden hours.

A justification for each action described above (merge collection, revised collection instrument, new collection instrument) will be provided to OMB with a correction Change Worksheet (OMB Form 83–C) at the time the action occurs. With the next renewal of this collection, the RRB will update the information collection package to account for the consolidation and other interim adjustments.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–27536 Filed 10–25–00; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purposes of this document are: (1) To give notice of 10 non-substantial revisions of existing routine uses in 4 systems of records; (2) to delete 2 systems of records; (3) to add a purpose statement to all remaining systems of records; and (4) to give notice of several non-substantial changes in

other categories for several systems of records.

DATES: The changes are effective as of the date of this publication.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 N. Rush St., Chicago, IL 60611–2092, (312) 751–4548.

SUPPLEMENTARY INFORMATION:

Part I: Minor Revisions to Existing Routine Uses

The following 10 existing routine uses in the following 4 systems of records are being revised to better express what information is being disclosed and for what purposes, or to change the name of the organization to which the information can be disclosed due to the renaming of the organization, or to limit the conditions under which the disclosure can be made:

RRB–17 "d" and "f"
RRB–20 "i," "j," and "o"
RRB–22 "e," "k," and "gg"
RRB–42 "a" and "c"

These revisions do not constitute new or expanded disclosures.

Part II: Deletions of Systems of Records

The following system of records is being deleted because it no longer meets the definition of "systems of records" under the Privacy Act: RRB–2. Privacy System of Records RRB–9 is being deleted because it is being consolidated into RRB–17.

Part III: Changes in Other Categories

SYSTEM NAME:

We changed the system name for systems RRB–3, RRB–42, and RRB–43, to better express the content of these systems.

SYSTEM LOCATION:

We revised this category for system RRB–3 to reflect the current location. We revised this category for system RRB–43 to reflect that it is located in the Office of the Inspector General.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

We revised this category for systems RRB–16, RRB–17, and RRB–42 to better or more comprehensively describe the individuals covered by the system. None of these revisions reflect new groups of individuals covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

We revised this category for systems RRB–3, RRB–5, RRB–16, RRB–42, and RRB–43 to correctly or more comprehensively describe the categories of records in these systems. None of the revisions reflect any new categories of records added to the systems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

We revised this category for systems RRB–17, RRB–42, and RRB–43 to more accurately express the legal authority for the systems.

STORAGE:

We revised this category for systems RRB–16 and RRB–43 to reflect current practice or better express the media used.

RETRIEVABILITY:

We revised this category for systems RRB–17 and RRB–43 to reflect current methods of retrieval.

SAFEGUARDS:

We revised this category for systems RRB–16, RRB–17, RRB–21, RRB–43, RRB–44, and RRB–46 to reflect current practice or better express safeguards procedures.

RETENTION AND DISPOSAL:

We revised this category for systems RRB–1, RRB–3, RRB–10, RRB–16, RRB–17, RRB–20, RRB–21, RRB–22, RRB–33, RRB–42, RRB–43, RRB–44, and RRB–46 to bring it into conformity with actual practice and approved records disposal schedules.

RECORD SOURCE CATEGORIES:

We revised this category in systems of records RRB–3, RRB–17, RRB–21, and RRB–43 to better or more comprehensively describe the record sources for information in the system.

Part IV: Existing systems covered by this document (as currently named)

RRB–1 Social Security Benefit Vouchering System
RRB–2 Medical Examiner's Index
RRB–3 Medicare Part B (Supplementary Medical Insurance Payment System—contracted to United Health Care Insurance Company)
RRB–4 Microfiche of Estimated Annuity, Total Compensation and Residual Amount File
RRB–5 Master File of Railroad Employees' Creditable Compensation
RRB–6 Unemployment Insurance Record File
RRB–7 Applications for Unemployment Benefits and Placement Service Under the Railroad Unemployment Insurance Act
RRB–8 Railroad Retirement Tax Reconciliation System (Employee Representatives)
RRB–9 Protest and Appeals under the Railroad Unemployment Insurance Act
RRB–10 Legal Opinion Files
RRB–11 Files on Concluded Litigation
RRB–12 Railroad Employees' Registration File
RRB–16 Social Security Administration Master Earnings File
RRB–17 Appeal Decisions from Initial Denials for Benefits under the Provisions of the Railroad Retirement Act
RRB–18 Travel and Miscellaneous Voucher Examining System
RRB–19 Payroll Record System
RRB–20 Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare)
RRB–21 Railroad Unemployment and Sickness Insurance Benefit System
RRB–22 Railroad Retirement Survivor and Pensioner Benefit System
RRB–26 Payment, Rate and Entitlement File
RRB–27 Railroad Retirement Board—Social Security Administration Financial Interchange System
RRB–29 Railroad Employees' Cumulative Gross Earnings Master File
RRB–33 Federal Employee Incentive Awards System
RRB–34 Employee Personnel Management Files
RRB–36 Complaint, Grievance, Disciplinary and Adverse Action Files
RRB–37 Medical Records on Railroad Retirement Board Employees
RRB–42 Uncollectible Benefit Overpayment Accounts
RRB–43 Investigation Files
RRB–44 Employee Test Score File
RRB–45 Employee Tuition Reimbursement File
RRB–46 Personnel Security Files
RRB–48 Employee Identification Card Files (Building Passes)
RRB–49 Telephone Call Detail Records

Dated: October 18, 2000.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–1

SYSTEM NAME:

Social Security Benefit Vouchering System—RRB.

* * * * *

1. The following sections in RRB–1 are revised, and a purpose section added, to read as follows:

PURPOSE(S):

Records in the Social Security Benefit Vouchering System are maintained to

administer Title II of the Social Security Act with respect to payment of benefits to individuals with 10 or more years of railroad service and their families.

* * * * *

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of the last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Change of address source documents are destroyed after 1 year. Magnetic tape: Tapes are updated at least monthly. For disaster recovery purposes, certain tapes are stored for 12–18 month periods. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center and destroyed when 8 years old. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding.

* * * * *

RRB–2

SYSTEM NAME:

Medical Examiner's Index.

2. System RRB–2 is removed in its entirety

* * * * *

RRB–3

SYSTEM NAME:

3. The following sections in RRB–3 are revised, and a purpose section is added to read as follows:

Medicare, Part B (Supplementary Medical Insurance Payment System—Contracted to Palmetto Government Benefit Administrators

SYSTEM LOCATION:

Palmetto Government Benefit Administrators, 17 Technology Circle, Columbia, South Carolina 29203–9591; Regional Office: PO Box 10066, Augusta, Georgia 30999

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, health insurance claim number, address, date of birth, telephone number, description of illness and treatment pertaining to claim, indication of other health insurance or medial assistance pertinent to claim, date(s) and place(s) of physician service, description of medical procedures, services or supplies furnished, nature of illness(es), medical charges, name, address and telephone of physician, identifying number of provider, designation of payee, Part B entitlement date, Part B deductible status and amount of payment to beneficiary or payee.

* * * * *

PURPOSE(S):

Records in this system are maintained to administer the supplementary medical insurance (Part B) portion of Medicare under Title XVIII of the Social Security Act for qualified railroad retirement beneficiaries.

* * * * *

RETENTION AND DISPOSAL:

Records are maintained by the insurance company office for 27 months. At the end of 27 months the material is sent to storage areas maintained by the insurance company. Records are retained and stored in accordance with guidelines issued by HCFA.

* * * * *

RECORD SOURCE CATEGORIES:

Claimant, his/her authorized representative or his/her survivors, the Social Security Administration, the Health Care Financing Administration and its contractors, physicians, and hospitals.

* * * * *

RRB–4

SYSTEM NAME:

Microfiche of Estimated Annuity, Total Compensation and Residual Amount File.

* * * * *

4. A purpose section is added to RRB–4 to read as follows:

PURPOSE(S):

The primary purpose of the system is to provide field offices with the capability of furnishing annuity estimates to prospective beneficiaries. The system is also used by field offices to provide temporary annuity rates that the Division of Operations may issue to applicants for employee and spouse benefits.

* * * * *

RRB–5

SYSTEM NAME:

Master File of Railroad Employee's Creditable Compensation.

* * * * *

5. The following sections in RRB–5 are revised, and a purpose section is added, to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual name, social security number, claim number, annuity beginning date, date of birth, sex, race, last employer identification number, amount of daily payrate if under $100, ICC occupation code, creditable service and compensation from 1937 to date, home address, and date of death.

* * * * *

PURPOSE(S):

The purpose of this system is to store railroad earnings of railroad employees which are used to determine entitlement to and amount of benefits payable under the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the Social Security Act, if applicable. The records are updated daily based on earnings reports received from railroad employers and the Social Security Administration and are stored in the Employment Data Maintenance Application database.

* * * * *

RRB–6

SYSTEM NAME:

Unemployment Insurance Record File.

* * * * *

6. A purpose section is added to RRB–6 to read as follows:

PURPOSE(S):

This system of records is used for filing general information about applicants for RUIA benefits. If an applicant files for UI benefits, some of the information in this file will be also placed in the claimants UI file.

* * * * *

RRB–7

SYSTEM NAME:

Applications for Unemployment Benefits and Placement Service Under the Railroad Unemployment Insurance Act.

* * * * *

7. A purpose section is added to RRB–7 to read as follows:

PURPOSE(S):

The purpose of this system of records is to be used as an individual's UI file. The records contained in the file are

pertinent to the individual's claim for unemployment benefits under the RUIA.

* * * * *

RRB–8

SYSTEM NAME:

Railroad Retirement Tax Reconciliation System (Employee Representatives).

* * * * *

8. A purpose section is added to RRB–8 to read as follows:

PURPOSE(S):

The purpose of this system is to ensure that the earnings of employee representatives reported to the Internal Revenue Service for tax purposes agree with earnings reported to the RRB for benefit payment purposes.

* * * * *

RRB–9

SYSTEM NAME:

Protest and Appeals under the Railroad Unemployment Insurance Act.

9. System RRB–9 is removed in its entirety.

* * * * *

RRB–10

SYSTEM NAME:

Legal Opinion Files.

* * * * *

10. The following sections in RRB—10 are revised, and a purpose section is added, to read as follows:

PURPOSE(S):

The RRB needs to collect and maintain information contained in this system of records in order to make decisions regarding the claims for benefits of individuals under various Acts administered by the RRB.

* * * * *

RETENTION AND DISPOSAL:

Opinions of precedential interest or otherwise of lasting significance, and correspondence related to these opinions, are retained permanently. Opinions of limited significance beyond the particular case, and correspondence related to these opinions, are retained in the individual's claim folder, if any, established under the Railroad Retirement Act. When no folder exists, these opinions are destroyed by shredding 2 years after the date of the last action taken by the Bureau of Law on the matter.

* * * * *

RRB–11

SYSTEM NAME:

Files on Concluded Litigation.

* * * * *

11. A purpose section is added to RRB–11 to read as follows:

PURPOSE(S);

The RRB needs to collect and maintain records of concluded litigation to which the RRB was a party.

* * * * *

RRB–12

SYSTEM NAME:

Railroad Employees' Registration File

* * * * *

12. A purpose section is added to RRB–12 to read as follows:

PURPOSE(S):

The purpose of the system is to provide information on railroad employees who completed Carrier Employee Registration forms (CER–1) to apply for a Social Security number (SSN). The information on these CERA–1 forms was available only at the Railroad Retirement Board.

* * * * *

RRB–16

SYSTEM NAME:

Social Security Administration Master Earnings File.

* * * * *

13. The following sections in RRB–16 are revised, and a purpose section is added, to read as follows:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have at least 108 creditable service months under the Railroad Retirement Act (RRA) or who attain eligibility for RRA benefits when military service is included as creditable railroad service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social security account number, name, date of birth, gender, social security claim status, details of earnings and periods of employment that are creditable under the Social Security Act for years after 1936.

* * * * *

PURPOSE(S):

The purpose of this system of records is to have Social Security Act earnings information available to RRB benefit programs for determinations related to RRA benefit entitlement and amount. The records are stored in the Employment Data Maintenance database.

* * * * *

STORAGE:

Mainframe computer database.

* * * * *

SAFEGUARDS:

Mainframe computer database: computer and computer storage room are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

RETENTION AND DISPOSAL:

Updates are made to database weekly using files transmitted to RRB from SSA over telephone lines.

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RRB–17

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14. The following sections and paragraphs in RRB–17 are revised to read as follows:

SYSTEM NAME:

Appeal Decisions from Initial Denials for Benefits under the Provisions of the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Appellants under the provisions of the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6); sec. 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

ROUTINE USES OF THE RECORDS CONTAINED IN THE SYSTEM, INCLUDING THE CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

d. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

* * * * *

f. Non-medical information in this system may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

* * * * *

RETRIEVABILITY:

Claim number or social security number, Bureau of Hearings and Appeals appeal number, or Bureau of Hearings and Appeals decision number.

* * * * *

SAFEGUARDS:

Only authorized personnel have access to these records which are kept in an office that is locked at the close of business each day and remains so until start of business the next day.

RETENTION AND DISPOSAL:

The decisions are retained for a period of 2 years and then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Information furnished by the appellant or his/her authorized representative, information developed by the hearings officer relevant to the appeal, and information contained in other record systems maintained by the Railroad Retirement Board.

* * * * *

RRB–18

SYSTEM NAME:

Travel and Miscellaneous Voucher Examining System.

* * * * *

15. A purpose section is added to RRB–18 to read as follows:

PURPOSE(S):

The system is used to pay the operating expenses of the agency excluding payroll. Payment is made to vendors for goods and services. Employees are reimbursed for travel expenses related to the performance of their jobs. Payments are made within Federal limits and applicable guidelines.

* * * * *

RRB–19

SYSTEM NAME:

Payroll Record System.

* * * * *

16. A purpose section is added to RRB–19 to read as follows:

PURPOSE(S):

The purpose of this system is to maintain employee data related to earnings. This includes hours worked, time off, and premium pay. It is also used to calculate employee gross to net pay based on mandatory and elective deductions. Earnings data is accumulated and reported to Federal, State, and local taxing authorities. Employee benefit data is reported to the Office of Personnel Management to ensure accuracy and proper coverage.

* * * * *

RRB–20

SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare)

* * * * *

17. The following sections and paragraph in RRB–20 are revised, and a purpose section is added, to read as follows:

PURPOSE(S):

Records in this system are maintained to administer Title XVIII of the Social Security Act for qualified railroad retirement beneficiaries.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

i. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and Social Security Act, as amended.

j. Beneficiary last address information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

* * * * *

o. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his or her entitlement to Medicare may be disclosed to the labor organization official.

* * * * *

RETENTION AND DISPOSAL:

Paper: Computer printouts, including daily and monthly statistics, premium payment listings, state-buy in listings and voucher listings are kept for 2 years, transferred to the Federal Records Center, and destroyed when 5 years old. Other copies of computer printouts are maintained for 1 year, then shredded. Applications material in individual claim folders with records of all actions pertaining to the payment or denial of claims are transferred to the Federal Record Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center.

Magnetic tape: Updated weekly. Obsolete tape is written over.

Microfilm: Originals are kept for 3 years, transferred to the Federal Records Center and destroyed 3 years and 3 months after receipt at the center. One copy is kept 3 years and then destroyed when 6 months old or no longer needed for administrative use, whichever is sooner.

* * * * *

RRB–21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System

* * * * *

18. The following sections and paragraphs in RRB–21 are revised, and a purpose section is added, to read as follows:

PURPOSE(S):

The purpose of this system of records is to carry out the function of collecting and storing information in order to administer the benefit program under the Railroad Unemployment Insurance Act.

* * * * *

SAFEGUARDS:

Paper and microforms: Maintained in areas not accessible to the public; offices are locked during non-business hours. Magnetic tape and magnetic disk; computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail; for computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the online query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper—Transferred to the Chicago Federal Records Center 1 year after the end of the benefit year during which the case was closed and then destroyed by shredding 6 years and 3 months after the end of the benefit year. In benefit recovery cases, the file is transferred to the Federal Records Center if there has

been no recent activity; the file is not destroyed until 6 years and 3 months after recovery has been completed or waived. *Magnetic tape*—Destroyed by shredding and compacting 10 years after the end of he benefit year. *Microform*—Destroyed by shredding and compacting 10 years after the end of the benefit year. *Optical media*—Destroyed by compacting 10 years after the end of the benefit year.

* * * * *

RECORD SOURCE CATEGORIES.

Applicant, claimant or his or her representative, physicians, employers, labor organizations, federal, state, and local government agencies, all Railroad Retirement Board files, insurance companies, attorneys, Congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

* * * * *

RRB–22

SYSTEM NAME:

Railroad Retirement Survivor and Pensioner Benefit System.

* * * * *

19. The following sections and paragraph in RRB–22 are revised, and a purpose section is added, to read as follows:

PURPOSE(S):

Records in this system of records are maintained to administer the benefit provisions of the Railroad Retirement Act, sections of the Internal Revenue Code related to the taxation of railroad retirement benefits, and Title XVIII of the Social Security Act as it pertains to Medicare coverage for railroad retirement beneficiaries.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

e. Beneficiary identifying information, address, check rates, number and date may be released to the Department of the Treasury to control for reclamation and return of outstanding benefit payments, to issue benefit payments, to act on reports of non-receipt, to insure delivery of payments to the correct address of the beneficiary or representative payee or to the proper financial organization, and to investigate alleged forgery, theft or unlawful negotiation of railroad retirement benefit checks or improper diversion of payments directed to a financial organization.

* * * * *

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration (Bureau of Supplemental Security Income), the Health Care Financing Administration, and to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

* * * * *

gg. Certain identifying information about annuitants, such as name, social security number, RRB claim number, and date of birth, as well as address, year and month last worked for a railroad, last railroad occupation, application filing date, annuity beginning date, identity of last railroad employer, total months of railroad service, sex, disability onset date, disability freeze onset date, and cause and effective date of annuity termination may be furnished to insurance companies for administering group life and medical insurance plans negotiated between certain participating railroad employers and railway labor organizations.

* * * * *

RETENTION AND DISPOSAL:

Paper—Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois, 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Account receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after the date of issue. Change of address source documents are destroyed after 1 year. *Microforms*—Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed when 8 years old. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. *Magnetic tape*—Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. For disaster recovery purposes certain tapes are stored for 12–18 months. *Magnetic disk*—Continually updated and permanently retained.

* * * * *

RRB–26

SYSTEM NAME:

Payment, Rate and Entitlement History File

* * * * *

20. A purpose section is added to RRB–26 to read as follows:

PURPOSE(S):

The purpose of this system is to record in one file all data concerning payment, rate, and entitlement history for recipients of Railroad Retirement benefits.

* * * * *

RRB–27

SYSTEM NAME:

Railroad Retirement Board—Social Security Administration Financial Interchange System.

* * * * *

21. A purpose section is added to RRB–27 to read as follows:

PURPOSE(S):

The purpose of this system is to calculate benefit amounts required to determine the financial interchange transfer amounts each year.

* * * * *

RRB–29

SYSTEM NAME:

Railroad Employees' Cumulative Gross Earnings Master File.

* * * * *

22. A purpose section is added to RRB–29 to read as follows:

PURPOSE(S):

The purpose of this system is to maintain gross earnings reports for Financial Interchange sample employees for use in the calculation of benefit amounts used in the financial interchange determinations.

* * * * *

RRB–33

SYSTEM NAME:

Federal Employee Incentive Awards System.

* * * * *

23. The following section in RRB–33 is revised, and a purpose section is added, to read as follows:

PURPOSE(S):

Past suggestion and award nominations and awards presented are maintained to provide historical and statistical records.

* * * * *

RETENTION AND DISPOSAL:

Denied suggestions are purged and destroyed by shredding 5 years after the denial date. Adopted suggestions are retained permanently as are all special achievement awards, quality increase awards, public service awards, RRB Award for Excellence, and government-sponsored awards.

* * * * *

RRB–34

SYSTEM NAME:

Employee Personnel Management Files.

* * * * *

24. A purpose section is added to RRB–34 to read as follows:

PURPOSE(S):

The system is maintained to provide information to managers and supervisors to assist in their work.

* * * * *

RRB–36

SYSTEM NAME:

Complaint, Grievance, Disciplinary, and Adverse Action Records.

* * * * *

25. The following section and a purpose section is added to RRB–36 to read as follows:

PURPOSE(S):

The purpose of this system of records is to maintain information related to grievances, disciplinary actions, and adverse actions in order to furnish information to arbitrators, EEO investigators, the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Courts, as necessary. The information is also used for statistical purposes, as needed.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

Title 5 U.S.C., sections 7503(c), 7513(e), and 7543(e).

* * * * *

RRB–37

SYSTEM NAME:

Medical Records on Railroad Retirement Board Employees.

* * * * *

26. A purpose section is added to RRB–37 to read as follows:

PURPOSE(S):

To maintain private records for employees regarding their medical history and other pertinent information such as results of screenings for medical conditions, immunization records, and workplace incidents or injuries.

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RRB–42

* * * * *

27. The following sections and paragraph in RRB–42 are revised, and a purpose section is added, to read as follows:

SYSTEM NAME:

Benefit Overpayment Accounts

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were overpaid in the benefits they received from the Railroad Retirement Board. Benefits overpaid are further delineated in the following three categories.

—Individuals receiving the following types of annuities, payable under the Railroad Retirement Act: railroad retirement, disability, supplemental, and survivor.

—Individuals receiving unemployment or sickness insurance benefits payable under the Railroad Unemployment Insurance Act

—Individuals receiving benefits under section 701 of the Regional Rail Reorganization Act of 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, Railroad Retirement claim number, type of benefit previously paid, amount of overpayment, debt identification number, cause of overpayment, source of overpayment, original debt amount, current balance of debt, installment repayment history, recurring accounts receivable administrative offset history, waiver, reconsideration and debt appeal status, general billing, dunning, referral, collection, and payment case history, amount of interest and penalties assessed and collected, name and address of debt collection agency or Federal agency to which account is referred for collection, date of such referral, amount collected, and name and address of consumer reporting agencies to which debt information is disclosed and date of such referral.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6); sec. 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1); Pub. L. 97–92, Joint Resolution; Pub. L. 97–365 (Debt Collection Act of 1982); Federal Claims Collection Act (31 U.S.C. 3701 *et. seq.*); Pub. L. 104–134 (Debt Collection Improvement Act of 1996).

PURPOSE(S):

The records in this system are created, monitored and maintained to enable the Railroad Retirement Board to fulfill regulatory and statutory fiduciary responsibilities to its trust funds, the individuals to whom it pays benefits and the Federal Government as directed under the Railroad Retirement Act, Railroad Unemployment Insurance Act, Debt Collection Act of 1982, Federal Claims Collection Act, and Debt Collection Improvement Act of 1996. These responsibilities include: accurate and timely determination of debt; sending timely, accurate notice of the debt with correct repayment and rights options; taking correct and timely action when rights/appeals have been requested; assessing appropriate charges; using all appropriate collection tools, releasing required, accurate reminder notices; and correctly and timely entering all recovery, write-off and waiver offsets to debts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Benefit overpayment amounts, history of collectible, history of collection efforts and identification information (name, address—including IRS address information—Social Security number, Railroad Retirement claim number, type of benefit) may be disclosed to private collection agencies for the purpose of recovering benefit overpayments.

* * * * *

c. For information related to overpayments of benefits paid under section 701 of the Regional Rail Reorganization of 1973, in the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, and whether arising by general statute or particular program statute, or by regulation, rule or order issued thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto; for information related to uncollectible overpayments paid under any other Act administered by the Railroad Retirement Board, in the event this system of records maintained by the Railroad Retirement Board to carry out its functions indicates a violation or

potential violation of law, whether civil, criminal, or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, provided that disclosure would be to an agency engaged in functions related to the Railroad Retirement Act, or the Railroad Unemployment Insurance Act or provided that disclosure would be clearly in the furtherance of the interest of the subject individual.

* * * * *

RETENTION AND DISPOSAL:

Records of the receivable accounts are maintained in an on-line electronic database and remain in the database even after waiver, reversal, recovery or write-off until 5 years after the debt is closed. After that time all records are removed from the on-line electronic database, and a microfilm copy is kept only of case history general activity. An uncollectible debt written off the active receivable database is stored on magnetic tape for possible future action. Most paper documents that are not immediately shredded are filed in claim folders that are covered by Privacy Act Systems of Records RRB–21, Railroad Unemployment and Sickness Insurance Benefit System, or RRB–22, Railroad Retirement, Survivor, and Pensioner Benefit System. These paper documents are mostly correspondence. Paper documents that relate to multiple accounts are kept for 6 years in folders established for the purpose.

* * * * *

RRB–43

28. The following sections and paragraph in RRB–43 are revised, and a purpose section is added, to read as follows:

SYSTEM NAME:

Office of Inspector General Investigation Files.

SYSTEM LOCATION:

Office of Inspector General, U.S. Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, and other documents alleging a violation of law, regulation or rule, or alleging misconduct, or conflict of interest; reports of investigations to resolve allegations with related exhibits, statements, affidavits or records obtained during the investigation; recommendations on actions to be taken; transcripts of, and documentation concerning request and approval for, consensual monitoring of communications; photographs, video and audio recordings made as part of the investigation; reports from law enforcement bodies; prior criminal or noncriminal records as they relate to the investigation; reports of actions taken by management personnel regarding misconduct; reports of legal actions resulting from violations referred to the Department of Justice or other law enforcement agencies for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, Pub. L. 95–452, 5 U.S.C. App., as amended

PURPOSE(S)

The Office of Inspector General maintains this system of records to carry out its statutory responsibilities under the Inspector General Act. These responsibilities include a mandate to investigate allegations of fraud, waste, and abuse related to the programs and operations of the RRB and to refer such matters to the Department of Justice for prosecution.

* * * * *

STORAGE:

Paper and electronic media.

RETRIEVABILITY:

Name, SSN, RRB Claim Number, and assigned number, all of which are cross-referenced to the other information.

SAFEGUARDS:

General access is restricted to the Inspector General and members of his staff; disclosure within the agency is on a limited need-to-know basis; files and paper documents are maintained in locked file cabinets located in areas not accessible to the public. Office is locked during non-business hours. Access to computers which store the electronic index is restricted to authorized personnel, and on-line query safeguards include a password unlock system.

RETENTION AND DISPOSAL:

Paper files are retained for 10 years before they are destroyed by shredding. They are destroyed by shredding in the fiscal year following the expiration of the 10-year retention period. The electronic index records are retained until no longer required for any operational or administrative purpose.

* * * * *

RECORD SOURCE CATEGORIES:

The subject; the complainant; third parties including but no limited to employers and financial institutions; local, state, and federal agencies; and other RRB record systems.

* * * * *

RRB–44

SYSTEM NAME:

Employee Test Score file.

* * * * *

29. The following sections in RRB–44 are revised, and a purpose section added, to read as follows:

PURPOSE(S):

Test scores are stored for use in the Agency's merit promotion program. Scores are forwarded by the Bureau of Personnel to merit promotion panels for use in ranking candidates for selection for promotion.

* * * * *

SAFEGUARDS:

Paper and diskettes are maintained in a locked box. A password is required to access the scores on the personal computer.

RETENTION AND DISPOSAL:

Paper records are destroyed by shredding after 3 years. The test score file on the personal computer is updated when each test is given. A test score that is over 3 years old will be replaced when the test is retaken, or removed if the test has not been retaken. A back-up disk is made each time a record is changed or added; it is retained until the next back up is made.

* * * * *

RRB–45

SYSTEM NAME:

Employee Tuition Reimbursement File.

* * * * *

30. A purpose section is added to RRB–45 to read as follows:

PURPOSE(S):

The purpose of this system of records is to serve as a respiratory for the records (*i.e.* passing grade, receipts for books, fees and tuition and application with proper agency approval) for each course for each individual.

* * * * *

RRB–46

SYSTEM NAME:

Personnel Security Files.

* * * * *

31. The following section in RRB–46 is revised, and a purpose section is added, to read as follows:

PURPOSE(S):

The purpose of this system of records is to maintain files documenting the processing of investigations on RRB employees and applicants for employment used in making security/suitability determinations.

* * * * *

SAFEGUARDS:

Records are kept in a locked cabinet; only authorized persons are permitted access.

RETENTION AND DISPOSAL:

Records are destroyed upon notification of death or not later than 5 years after separation or transfer of employee

* * * * *

RRB–48

SYSTEM NAME:

Employee Identification Card Files (Building Passes).

* * * * *

32. A purpose section is added to RRB–48 to read as follows:

PURPOSE(S):

The purpose of this system of records is to validate employees who have been given access to the building.

* * * * *

RRB–49

SYSTEM NAME:

Telephone Call Detail Records.

* * * * *

33. A purpose section is added to RRB–49 to read as follows:

PURPOSE(S):

The purpose of this system of records are to verify the correctness of telephone service billing and to detect and deter possible improper use of agency telephones by agency employees and contractors.

[FR Doc. 00–27537 Filed 10–25–00; 8:45 am]

BILLING CODE 7906–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43458; File No. SR–BSE–00–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. To Amend Its Transaction Fee Schedule and Floor Operations Fee Schedule

October 18, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, notice hereby is given that on September 28, 2000, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. 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 BSE proposes to amend its Transaction Fee Schedule to increase the amount of monthly transaction-related revenue the BSE must generate before it shares excess revenue with eligible members. Additionally, the BSE proposes to amend its Floor Operations Fee Schedule to include a per-trade credit for executions in Exchange Traded Funds ("ETFs") for which registration fees are required. The text of the proposed rule change is available at the principal office of the BSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the BSE's Revenue Sharing Program. Currently, the Exchange's Transaction Fee Schedule states that the minimum amount of monthly transaction-related revenue the BSE must generate before it shares excess revenue with member firms in $1.4 million. The BSE proposes to raise this threshold to $1.5 million in order to help meet the budgeted costs of operating the Exchange in the upcoming fiscal year.

In addition, the proposed rule change would amend the Exchange's Floor Operations Fee Schedule to include a $2 per-trade credit for each trade in certain ETFs that are executed on the BSE and routed to a specialist firm on the Exchange. Member firms must pay a registration fee for trading certain ETFs on the Exchange. Only those ETFs for which member firms must pay a registration fee would be subject to the $2 per-trade credit. The maximum annual credit that a specialist could receive per ETF would be capped at the amount the specialist paid for that ETF's annual registration fee.

2. Basis

The BSE believes that the proposed rule change is permissible under section 6(b)(5) of the Act[3] in that it is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. The BSE has stated that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[4]

[3] 15 U.S.C. 78f(b)(5).

[4] The Exchange also believes that the proposed rule change is consistent with section 6(b)(4) of the Act, 15 U.S.C. 78f(b)(4), in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members. Telephone conversation between Kathy Marshall, Vice President, and John Boese, Assistant Vice President, BSE, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on October 18, 2000.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act [5] and subparagraph (f)(2) of Rule 19b–4 [6] 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 purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–00–14 and should be submitted by November 16, 2000.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of the Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–27480 Filed 10–25–00; 8:45 am]

BILLING CODE 8010–10–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC–14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Small and Minority business (ISAC–14) will hold an open meeting on November 13, 2000 from 9:15 a.m. to 3 p.m.

DATES: The meeting is scheduled for November 13, 2000, unless otherwise notified

ADDRESSES: The meeting will be held at the Department of Commerce, Room 4830, located at 14th Street and Constitution Avenue, NW., Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Millie Sjoberg, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230, (202) 482–4792 or Dominic Bianchi, Office of the United States Trade Representative, 600 17th St., NW., Washington, DC 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: ISAC–14 will hold an open meeting on November 13, 2000 from 9:15 a.m. to 3 p.m. Agenda topics to be addressed will be:

1. A briefing on issues regarding infrastructure security;

2. A briefing on new Carousel Legislation;

3. A briefing on the Export Finance Matchmaker program;

4. A briefing on E-Commerce as it relates to the Free Trade Agreement of the Americas; and

5. Committee business.

Dominic Bianchi,

Acting Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 00–27457 Filed 10–25–00; 8:45 am]

BILLING CODE 3190–01–M

[7] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Tariff-Rate Quota for Imports of Beef

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that USTR has determined that New Zealand, pursuant to its request, is a participating country for purposes of the export certification program for imports of beef under the tariff-rate quota.

DATES: The action is effective January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Suchada Langley, Senior Economist for Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508; telephone: (202) 395–6127.

SUPPLEMENTARY INFORMATION: The United States maintains a tariff-rate quota on imports of beef as part of its implementation of the Marrakesh Agreement Establishing the World Trade Organization. The in-quota quantity of that tariff-rate quota is allocated in part among a number of countries. As part of the administration of that tariff-rate quota, USTR provided, in 15 CFR part 2012, for the use of export certificates with respect to imports of beef from countries that have an allocation of the in-quota quantity. The export certificates apply only to those countries that USTR determines are participating countries for purposes of 15 CFR part 2012.

On September 26, 2000, USTR received a request and the necessary supporting information from the government of New Zealand to be considered as a participating country for purposes of the export certification program. Accordingly, USTR has determined that, effective January 1, 2001, New Zealand is a participating country for purposes of 15 CFR part 2012. As a result, effective on and after January 1, 2001, imports of beef from New Zealand will need to be accompanied by an export certificate in order to qualify for the in-quota tariff rate. However, imports exported from New Zealand prior to January 1, 2001, including exports currently warehoused, will not require an export certificate. In order for the export certificate to be valid, it has to be used

in the calendar year for which it is in effect.

Charlen Barshefsky,

United States Trade Representative.

[FR Doc. 00–27575 Filed 10–25–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Carl R. Keller Field Airport, Port Clinton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is considering a proposal to change a portion of the airport (a parcel of land in the Northeast Quarter of section 2, T6N, R17E, Portage Township, Ottawa County, Ohio, current use and present condition is vacant grassland) from aeronautical use to non-aeronautical. There is no impacts to the airport by allowing the airport to lease the property. The land was acquired under FAA Project Number 3–39–0068–1599. In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose. The proposed land will be leased and a visitors' bureau will be built. The visitors' bureau will be a marketing tool and increase airport recognition. The lease payments that the visitors' bureau will make to the Erie Ottawa Airport Authority will increase income for airport improvements and operation expenses at Carl R. Keller Field Airport. The additional benefit of leasing this land is that the visitors' bureau will be installing the first portion of the access road for this area of the airport property.

DATES: Comments must be received on or before November 27, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Acting Assistant Manager, Detroit Airports District Office, Willow Run Airport East, 8820 Beck Road, Belleville, MI, 48111. Telephone number 734–487–7282/FAX number 734–487–7299. Documents reflecting this FAA action may be reviewed at this same location on at Carl R. Keller Field Airport, Port Clinton, Ohio.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA intends to authorize the lease of the subject airport property at Carl R. Keller Field, Port Clinton, Ohio. Approval does not constitute a commitment by the FAA to financially assist in the lease of the subject airport property nor a determination that all measures covered by the programs are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the lease of the airport property will be in accordance FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

James M. Opatrny,

Acting Manager, Detroit Airports District Office FAA, Great Lakes Region.

[FR Doc. 00–27449 Filed 10–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Jacksonville International Airport, Jacksonville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jacksonville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 27, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida, 32822–5024.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to John D. Clark, III, Vice President of Aviation, of the Jacksonville Port Authority at the following address:

Jacksonville Port Authority, Post Office Box 3005, Jacksonville, Florida, 32206–0005.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Jacksonville Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Richard M. Owen, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida, 32822–5024, (407) 812–6331, extension 19. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jacksonville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 19, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Jacksonville Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 3, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–07–C–00–JAX.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2001.

Proposed charge expiration date: June 1, 2004.

Total estimated net PFC revenue: $28,181,513.

Brief description of proposed project(s): Expand existing terminal building by approximately 84,500 square feet, and renovate approximately 109,877 square feet of existing terminal space.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing or required to file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Jacksonville Port Authority.

Issued in Orlando, Florida on October 19, 2000.

John W. Reynolds,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 00–27594 Filed 10–25–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Minnesota Northern Railroad

[Docket Number FRA–2000–7948]

The Minnesota Northern Railroad (MNN) of Crookston, Minnesota, has petitioned for a permanent waiver of compliance for two locomotives from the requirements of the Safety Glazing Standards, 49 CFR part 223, which requires certified glazing in all locomotive windows, except those locomotives used in yard service. The railroad indicates that the locomotives are most often used in yard service at Crookston and Thief River Falls, Minnesota, but may occasionally be utilized in road service. MNN states that the railroad operates in a rural area of northwestern Minnesota with the largest cities being Crookston (population 8,100) and Thief River Falls (population 8,400).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2000–7948) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street S.W., Washington, D.C. 20590. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov.*

Issued in Washington, D.C. on October 18, 2000.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 00–27516 Filed 10–25–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33948]

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 overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail line between BNSF milepost 885.2 near Bakersfield, CA, and BNSF milepost 1120.54 near Stockton, CA, a distance of 235 miles.[1]

The transaction is scheduled to be consummated on October 20, 2000.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for scheduled maintenance.

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. 33948 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: October 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27559 Filed 10–25–00; 8:45 am]

BILLING CODE 4915–00–P

[1] On October 16, 2000, UP filed a petition for exemption in STB Finance Docket No. 33948 (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 overhead trackage rights arrangement described in the present proceeding to expire on February 15, 2001. That petition will be addressed by the Board in a separate decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 161X)]

Union Pacific Railroad Company—Abandonment Exemption—in McLennan County, TX

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon 2,261 feet of railroad of the former Texas Central Railroad from Chainage Station 35+00 to Chainage Station 57+61 in Waco, McLennan County, TX. The line traverses United States Postal Service Zip Code 76704.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 25, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 6, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 15, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW , Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James P. Gatlin, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 31, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by UP's filing of a notice of consummation by October 26, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: October 18, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27439 Filed 10–25–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 16, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 27, 2000 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0539.

Form Number: None.

Type of Review: Extension.

Title: Statement of Process-Marking of Plastic Explosives for the Purpose of Detection.

Description: The information contained in the statement of process is required to ensure compliance with the provisions of Public Law 104–132. This information will be used to ensure that plastic explosives.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 8.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 16 hours.

Clearance Officer: Frank Bowers (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–27472 Filed 10–25–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 16, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 27, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0043.

Form Number: IRS Form 972.

Type of Review: Extension.

Title: Consent of Shareholder To Include Specific Amount in Gross Income.

Description: Form 972 is filed by shareholders of corporations to elect to include an amount in gross income as a dividend. The IRS uses Form 972 as a check to see if an amended return is filed to include the amount in income and to determine if the corporation claimed the correct amount.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 400.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—13 min.

Learning about the law or the form—4 min.

Preparing the form—6 min. Copying, assembling and sending the form to the IRS—20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 368 hours.

OMB Number: 1545–1034.

Form Number: IRS Form 8582–CR.

Type of Review: Extension.

Title: Passive Activity Credit Limitations.

Description: Under section 469, credits from passive activities, to the extent they do not exceed the tax attributable to net passive income, are not allowed. Form 8582–CR is used to figure the passive activity credit allowed and the amount of credit to be reported on the tax return.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 900,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 5 min.
Learning about the law or the form—6 hr., 5 min.
Preparing the form—4 hr., 21 min.
Copying, assembling and sending the form to the IRS—2 hr., 11 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 7,017,300 hours.

OMB Number: 1545–1288.

Form Number: IRS Form 8828.

Type of Review: Extension.

Title: Recapture of Federal Mortgage Subsidy.

Description: Form 8828 is needed to compute the section 143(m) tax on recapture of the Federal subsidy from use of qualified mortgage bonds and mortgage credit certificates in cases where the financing is provided after 1990 and the home subject to the financing is sold during the first 9 years after financing was provided. IRS uses the information to determine that the proper amount of Federal subsidy is recaptured.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 18 min.
Learning about the law or the form—22 min.
Preparing the form—46 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Other (for year of sale of home).

Estimated Total Reporting/Recordkeeping Burden: 2,678 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–27473 Filed 10–25–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 18, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 27, 2000.

Internal Revenue Service (IRS)

OMB Number: 1545–0946.

Form Number: IRS Form 8554.

Type of Review: Extension.

Title: Application for Renewal of Enrollment To Practice Before the Internal Revenue Service.

Description: This information relates to the approval of continuing professional education programs and the renewal of the enrollment status for those individuals admitted (enrolled) by the Internal Revenue Service.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 39,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 12 minutes.

Frequency of Response: Other (one-time filing).

Estimated Total Reporting/Recordkeeping Burden: 47,400 hours.

OMB Number: 1545–1160.

Regulation Project Number: CO–93–90 Final.

Type of Review: Extension.

Title: Corporations; Consolidated Returns-Special Rules Relating To Dispositions and Deconsolidations of Subsidiary Stock.

Description: These regulations prevent elimination of corporate-level tax because of the operation of the consolidated returns investment adjustment rules. Statements are required for dispositions of a subsidiary's stock for which losses are claimed, for basis reductions within 2 years of the stock's deconsolidation, and for elections by the common parent to retain the NOLs of a disposed subsidiary.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (one-time).

Estimated Total Reporting Burden: 6,000 hours.

OMB Number: 1545–1271.

Regulation Project Number: REG–209035–86 Final and REG–208165–91 Final.

Type of Review: Extension.

Title: Stock Transfer Rules (REG–209035–86); and Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations and Related Reporting Requirements (REG–208165–91)

Description: A U.S. person must generally file a gain recognition agreement with the Internal Revenue Service in order to defer gain on a section 367(a) transfer of stock to a foreign corporation, and must file a notice with the IRS if it realizes any income in a section 367(b) exchange. These requirements ensure compliance with the respective Code sections.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 580.

Estimated Burden Hours Per Respondent: 4 hours, 7 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,390 hours.

OMB Number: 1545–1551.

Revenue Procedure Number: Revenue Procedure 97–36, Revenue Procedure 97–38, Revenue Procedure 97–39, and Revenue Procedure 99–49.

Type of Review: Extension.

Title: Changes in Methods of Accounting.

Description: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of the change.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/Recordkeepers: 24,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 9 hours, 21 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 224,389 hours.

OMB Number: 1545–1697.

Revenue Procedure Number: Revenue Procedure 2000–35.

Type of Review: Extension.

Title: Section 1445 Withholding Certificates.

Description: Revenue Procedure 2000–35 provides guidance applications for withholding certificates under Code section 1445.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 6,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 10 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 60,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–27474 Filed 10–25–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 19, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 27, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1449.

Regulation Project Number: IA–57–94 Final.

Type of Review: Extension.

Title: Cash Reporting by Court Clerks.

Description: Section 6050I(g) imposes a reporting requirement on criminal court clerks that receive more than $10,000 in cash as bail. The IRS will use the information to identify individuals with large cash incomes. Clerks must also furnish the information to the United States Attorney for the jurisdiction in which the individual charged with the crime resides and to each person posting the bond whose name appears on Form 8300.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting Burden: 125 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–27475 Filed 10–25–00; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Thursday,
October 26, 2000

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1908

Consultation Agreements: Changes to Consultation Procedures; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1908

[Docket No. CO–5]

Consultation Agreements: Changes to Consultation Procedures

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule amends the Occupational Safety and Health Administration's (OSHA) regulations for federally-funded onsite safety and health consultation visits to: provide for greater employee involvement in site visits; require that employees be informed of the results of these visits; provide for the confidential treatment of information concerning workplace consultation visits; and update the procedures for conducting consultation visits.

EFFECTIVE DATE: This final rule will become effective on December 26, 2000.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the regulation the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: E. Tyna Coles, Director, Office of Cooperative Programs, Directorate of Federal-State Operations—OSHA, Rm. N–3700, 200 Constitution Avenue NW., Washington DC, 20210. Telephone: (202) 693–2213.

SUPPLEMENTARY INFORMATION:

I. Background: The OSHA Onsite Consultation Program

The Occupational Safety and Health Administration (OSHA), under cooperative agreements with agencies in 48 states, the District of Columbia, and several U.S. territories, administers and provides federal funding for an onsite consultation program which makes trained health and safety personnel available at an employer's request and at no cost to the employer to conduct worksite visits to identify occupational hazards and provide advice on compliance with OSHA regulations and standards. (In the remaining 2 states and 2 territories, onsite consultation services are provided to small employers in the private sector as part of an OSHA-approved state plan funded by federal grants under section 23(g) of the Occupational Safety and Health (OSH) Act, rather than under cooperative agreements.) Priority in providing onsite consultation visits is accorded to smaller employers in more hazardous industries. (Various OSHA directives currently specify that priority for consultation services be given to employers having not more than 250 workers at the site receiving the consultation, and not more than 500 workers nationwide.) The consultation program was first authorized by Congressional appropriations action in 1974.

Section 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(c)) directs the Secretary of Labor to establish programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by the Act. The need for a greater understanding by employers of their obligations under the Federal or State OSH Acts has been widely acknowledged. The interpretation of complex standards and the recognition of hazards in the workplace can be difficult for employers. Small business employers who may lack the financial resources to utilize private consultants may face even greater difficulty in understanding their obligations under the Act.

Onsite consultation services can be provided without triggering the enforcement mechanisms of the Act. Federally funded onsite consultation was originally conducted only by states operating plans approved under section 18 of the Act. In response to the demand for consultation in other states, Part 1908 was first promulgated on May 20, 1975, (40 FR 21935) to authorize federal funding of onsite consultation activity by States without approved State Plans through cooperative agreements entered into under the authority of sections 21(c) and 7(c)(1) of the Act. Part 1908 was subsequently amended on August 16, 1977 (42 FR 41386) to clarify a number of provisions which had been subject to misinterpretation, as well as to increase the level of Federal funding to ninety percent, a level that was considered necessary to provide a strong incentive for States to enter the program. The rule was again amended on June 19, 1984 (49 FR 25082), to clarify various provisions to reflect the experience gained after 1977. The 1984 amendment also contained provisions allowing OSHA to grant inspection exemptions to employers who meet certain requirements.

On July 16, 1998, President Clinton signed into law the Occupational Safety and Health Administration Compliance Assistance Authorization Act (CAAA), Public Law 105–197, which codifies this important OSHA program as a new subsection 21(d) of the Occupational Safety and Health Act. The regulations at 29 CFR part 1908 remain the rules under which the OSHA onsite consultation program is administered and provide, among other things, rules and procedures for state consultants performing worksite visits. On July 2, 1999 (64 FR 35972), OSHA published a document in the **Federal Register** requesting public comments on proposed changes to 29 CFR part 1908. The proposed rule was intended to implement the CAAA, to meet OSHA's goals for the consultation programs as established in the National Performance Review (NPR) of 1995, and to reflect current consultation policies and procedures. The proposal presented a number of new issues including: (a) Employees' right to participate in the consultation visit; (b) employees' right to be notified of hazards identified; and (c) OSHA's use of the consultants' report during an enforcement proceeding. OSHA received views and comments from state consultation service providers, OSHCON (the association representing state consultation service providers), employers, organizations representing employer groups, labor unions, members of congress and interested members of the public during a 90-day public comment period that ended on September 30, 1999. Most comments focused on the issues delineated above.

II. Summary and Explanation of Final Rule

This section includes an analysis of the public record and the policy considerations underlying the decision on various provisions of the rule. In today's final rule, OSHA has made various changes to the proposed language. Editorial and grammatical corrections are made throughout the final rule, which do not alter the specific intent or purpose of the proposal's requirements. In most instances, these minor changes are not discussed in the preamble. The preamble focuses on substantive issues raised in the proposal.

OSHA has cited public comments in the record by identifying exhibits parenthetically. The comments are included in Exhibit 2. Comment numbers identifying a particular commenter follow the exhibit number. If more than one comment is cited, the comment numbers are separated by

commas. For example (Ex. 2: 2, 3, 4) means Exhibit 2: comment numbers 2, 3, and 4. The names and exhibit numbers of commenters are listed in Attachment I.

Section 1908.1 Purpose and scope.

This section describes in general terms the purpose of the cooperative agreements between OSHA and state governments to provide consultation services to employers. In its present form, the rule cites sections 7(c)(1) and 21(c) of the Occupational Safety and Health Act of 1970 as its source of authority. The rule currently does not explain the obligation of states, operating plans with consultation program components under section 18(b) of the Act, to operate consultation programs that are "at least as effective as" the 7(c)(1) programs.

The proposed rule revised the section to establish section 21(d), the Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998, as the primary source of authority for this program. The proposal also clarified the obligation of the State plans to establish consultation programs that are "at least as effective as" the 21(d) consultation programs. There were no objections to these proposals. The proposed language is retained in the final rule without change.

Section 1908.2 Definitions

This section contains definitions of terms used throughout the rule. The proposed rule included revised definitions of "Employee", "Employer", "Other-than-serious hazards", and "Serious-hazards", and new definitions of "List of Hazards", "Programmed inspection", "Programmed inspection schedule", and "Recognition and exemption program" for the purpose of part 1908.

There were no comments on the definitions of "Employee", "Employer", "Other-than-serious hazards", "Serious-hazards", "Programmed inspection", "Programmed inspection schedule", and "Recognition and exemption program". Those definitions are retained in the final rule without change.

Two state agencies commented that the definition of "List of Hazards" needs to be further clarified with regard to what is to be included in the list, and whether there is a new requirement to verify the correction of other-than-serious hazards that are posted. The requirement to post the "List of Hazards" is intended as a means of informing employees about hazards in the workplace. OSHA does not intend to require the consultation projects to verify correction of other-than-serious hazards. Some commenters noted that requiring the employer to post the "List of Hazards," including the recommended corrective action, would be counter-productive because of the volume and detail of a consultant's recommended corrective action. Others pointed out that the employer is not bound exclusively to the consultant's recommended action. OSHA agrees that the objective of informing employees about hazards identified by the consultant can be achieved without posting the recommended corrective action, and without requiring the posting of other-than-serious hazards. The definition of "List of Hazards" in the final rule, therefore, does not include the recommended corrective action and other-than-serious hazards. The final rule will require the employer to make the consultant's recommended corrective action and information on other-than-serious hazards available at the worksite for examination by affected employees or their representatives.

With respect to the definition of "recognition and exemption program," one commenter noted that the recognition and exemption program should recognize and grant exemptions to sites with "good basic" safety and health programs rather than "exemplary" programs. (Ex. 2:13.) Two state agencies commented that the "recognition and exemption program should recognize "exemplary" program(s) and not "basic" programs as some have suggested." (Ex. 2: 9, 134.) The term "exemplary" programs, as used in this rule, refers to programs that meet the requirements of the agency's Safety and Health Management Guidelines of 1989 (42 FR 3904) with respect to hazards covered by the Act. OSHA believes that the requirements of the 1989 guidelines can be met by every employer in the nation. For those genuinely working to achieve recognition and exemption status, the rule also permits the deferral of inspections. The definition is retained without change in the final rule.

Section 1908.3 Eligibility and Funding

This section establishes the criteria for state eligibility to enter into a cooperative agreement with OSHA and sets forth the terms of reimbursement under the agreement. The section was amended to clarify that a state operating an approved section 18(b) state plan cannot receive funding for consultation programs under section 21(d) while continuing to receive funding for the same consultation program under section 23(g) of the Act. One commenter stated that the proposed rule is inconsistent with the CAAA because it will deny training and education funds to section 18(b) state plans with consultation programs funded under section 23(g). (Ex. 2:17.) This rule does not change the existing policy on funding of consultation programs but merely clarifies the policy. All State-Plan states will continue to be eligible for training and education program funding independent of funding for onsite consultation programs. The final rule retains the proposed language without change.

1908.5 Requests and Scheduling for Onsite Consultation

This section includes requirements for state consultation agencies to encourage employers to request onsite consultation visits and to publicize the availability and scope of services provided. The proposed language changes the last sentence in § 1908.5(a)(3) to reflect the change from Inspection Exemption Through Consultation (IETC) to the proposed recognition and exemption program, implemented as the Safety and Health Achievement Recognition Program (SHARP) in federal enforcement states. Even though no other changes were proposed to the rest of § 1908.5(a)(3), one commenter stated that the language in the section was clearer in the existing rule. (Ex. 2:124.) Another commenter noted that the rights and obligations of the employer are explained in promotional materials, public presentations, and in the opening conference and need no further emphasis when the request is received. (Ex. 2:165.) OSHA understands the need of the various states to tailor their promotional and outreach materials to their unique markets, and that these promotional and outreach material may vary from state to state. It is, however, essential that regardless of the state providing the consultation service certain pertinent information must be provided to all employers who request a consultation visit. To that end, § 1908.5(a)(3) outlines the required information. When this rule becomes effective, OSHA expects the promotional materials developed by the states to include information on the exemption and recognition program rather than the inspection exemption through consultation.

Section 1908.5(b) includes a proposal to require consultation projects to inform employers about the requirement to post the "List of Hazards" when taking requests for consultation services. One state agency expressed the opinion that explaining the requirement to post

the "List of Hazards" when taking such a request will intimidate the employer. (Ex. 2:165.) OSHA does not believe that a thorough explanation of the reason for requiring the posting of the "List of Hazards," together with an explanation of the benefits of the consultation service, including the benefits of "consultation in progress" at § 1908.7(b)(1), will intimidate an employer who is willing to work in good faith with the consultation project. The following change is made in the final rule to allow the states more flexibility in explaining the requirement to post the "List of Hazards" to an employer. The last sentence originally proposed to be added to § 1908.5(b) (requiring the states to explain the employer's obligation to post the "List of Hazards" during the opening conference) is added to the end of the cautionary statements in § 1908.5(a)(3).

Section 1908.6 Conduct of a Visit

This section establishes the rules for the actual conduct of a consultation visit. The proposed rule was designed to change this section in two ways. Section 1908.6(c)(2) provides for employee participation in the walkaround phase of the visit. The section provides that, at unionized sites, a duly appointed employee representative will be given the opportunity to accompany the consultant and the employer's representative in the walkaround phase of the visit. The section provides further that, at all other sites, the consultant will confer with a reasonable number of employees. The proposal codifies the current policy on employee participation as found in the Consultation Policies and Procedures Manual (CPPM) (TED 3.5B, p. VI–9, 1996). Several commenters noted that, even though they presently allow their employees to participate in the process, they are opposed to OSHA making employee participation a requirement for providing the consultative service. Many of them asserted that employee participation must be left to the discretion of the employer. (Ex. 2: 50, 54, 58, 62, 68, 79, 100, 101, 106, 110, 171,183, 184, 191, 197, and 203.) Other commenters objected to this change, noting that the current rule allows for employee participation, and that the CPPM adequately addresses the substance of the proposed rule. (Ex. 2: 17, 73, 121, 124, 132, 142, 147, 155.) Several employers and state agencies, however, agreed with the change and many noted that this is already the practice. (Ex. 2: 3, 10, 12, 15, 25, 77, 83, 85, 86, 107, 133, 145, 158, 159, 162, 189, and 201.) OSHA believes that because a consultation visit is ultimately intended to benefit employees (by assisting the employer to provide a workplace free of recognized hazards,) affected employees and/or their representatives must be provided the opportunity to participate in the process. This position is consistent with legislative history of the Occupational Safety and Health Compliance Assistance Authorization Act of 1998. The final rule retains the proposed language without change.

The meaning of the term "employee representative" as used in the proposed rule caused concern among some commenters. They were concerned that allowing participation by undefined employee representatives would unduly burden small employers, and that there are situations where such employee participation may not be necessary. (Ex. 2: 19, 20, 31, 32, 42, 46, 51, 66, 67, 72, 80, 119, 125, and 174.) Others completely objected to the section on the grounds that it had an enforcement tone and would reduce employers' willingness to participate in the program. (Ex. 2: 34, 49, 111, 130, 136, 146, and 190.) One commenter wanted OSHA to clarify the meaning and applicability of the section. (Ex. 2: 8.) Therefore, a definition of "employee representative" has been added to the final rule to clarify that, as used in this rule, the term refers only to duly appointed representatives of employees at unionized sites. At all other sites, the current practice where the consultant confers with a reasonable number of employees will continue.

Despite this existing practice, there were explicit and implicit comments that OSHA's prescription for employee participation is a "one-size-fits-all" solution, while others observed that OSHA gives no indication of the meaning of "reasonable number of employees". (Ex. 2: 152, 192 and 197.) The proposed rule leaves the details of employee participation at non-unionized sites to the discretion of the consultant. The consultant determines based on the unique site conditions when, how and how frequently to confer with employees. This rule does not preempt any existing state rule that provides for comparable employee participation.

To remove any confusion regarding the role of employees in the consultation visit, the phrase "In addition" is added to the final rule at § 1908.6(c)(2)(i) to clearly indicate that the requirements in the whole of § 1908.6(c)(2) are in addition to the requirements in § 1908.6(c)(1). Further, the phrase "or if the employee representative declines the offer to participate" is added to § 1908.6(c)(2)(ii) of the final rule to allow the consultant the flexibility of proceeding where the duly appointed employee representative voluntarily declines the offer to participate in the visit. On a related matter, one commenter wanted a clarification on what happens if the employer refuses to allow employee participation. (Ex. 2: 188.) The CPPM (OSHA Instruction TED 3.5A 1996, p IV–3) provides clearly that, at unionized sites, the employer must afford the employee representative an opportunity to participate in the walkaround phase as well as the opening and closing conferences of the visit. The same section of the CPPM reserves the right of the consultant to confer privately with employees. The final rule continues this policy. The consultation visit will not proceed if the employer refuses to allow employee participation as prescribed in the final rule and the CPPM.

The proposal in § 1908.6(d) provided for participation by employee representatives in an opening and closing conference, and for notification of affected employees of the scope and purpose of the visit. Some commenters objected to this proposal on the grounds that it will undermine the right of the employer to control the visit and to voluntarily determine who participates in the process. (Ex. 2: 79, 100, 111, 120, 146.) Others commented that mandating participation by employee representatives in the opening and closing conference will undermine the confidential nature of the process, and that it is inconsistent with the intent of Pub. L. 105–197. (Ex. 2: 17, 78, 101, 106, 110, 121, 169, 184.) Another group of commenters objected to separate conferences on the grounds that it could be divisive and may put the consultant in an "untenable position as a labor advocate". (Ex. 2: 9, 77, 86, 134, 147, 155.) There were also commenters who noted that allowing employee representatives to participate in the opening and closing conference would be time consuming, burdensome, costly to employers, and reduce the level of participation. (Ex. 2: 89, 97, 119, 121, 181.) Some commenters were supportive of the proposal and applauded OSHA's effort to encourage the inclusion of employees represented by organized labor in the consultative process. (Ex. 2: 83, 107, 122, 133, 137, 145, 158, 159, 162, 189, 201, 205.) OSHA notes that the proposal to allow employee representatives in the opening and closing conference only affects unionized sites, which constitute only about 14% of all sites served by the consultation projects. The provision permitting a request for a separate

opening and closing conference is equally available to the employer and the employee representative. Requests for separate opening and closing conferences may or may not reflect divisions between labor and management. Be that as it may, the consultant's role is to identify the hazards in the workplace, to advise affected employees about those hazards, to advise the employer on methods for correcting the hazards, and to assist the employer in establishing or improving safety and health programs. That function does not require the consultant to take sides in any internal disputes.

The opening conference provides an opportunity for the consultant to explain the purpose and scope of the visit, to emphasize the obligations of the employer, and to reaffirm the rights and the authority of the employer to control the visit by expanding, limiting or terminating the visit at anytime. The closing conference provides an opportunity for the consultant to discuss findings, to advise the employer of interim protective methods, and to establish correction due dates. OSHA understands that there may be matters that the employer may want to discuss privately. OSHA intends to issue a guideline on matters that should be addressed privately with the employer, at the employer's request. Such matters will include the critique of workplace management systems for occupational safety and health.

Some commenters expressed concern over the ability of employees to speak freely with the consultant in the presence of the employer without fear of retaliation. One commenter wanted the rule to expressly allow the consultant to confer privately with the employee, and raised the question of anti-discrimination protection and walkaround pay. (Ex. 2: 137.) The final rule retains § 1908.6(c)(1) of the present rule, which specifies that the consultant retains the right to confer individually with an employee if the consultant so wishes. Further, OSHA believes that any discrimination issue that may arise out of the consultation process is adequately addressed by section 11(c) of the Occupational Safety and Health Act of 1970, as implemented through 29 CFR part 1977, and needs no further emphasis in this rule. With regard to walkaround pay, OSHA believes that this issue should be resolved by the employer and the union when the request is made.

Regarding the requirement for the consultant to notify affected employees of the visit, one commenter noted that § 1908.6(d)(1) is vague, and that its implementation could be problematic in some cases. (Ex. 2: 181.) The section is intended to encourage the consultant to use his or her best judgment in informing as many employees as possible of the purpose of the visit, and to increase interaction with employees covered by the scope of the visit. The final rule is changed to clarify that the provision is not intended to require the states to provide notice of the visit to all affected employees, but rather to inform employees with whom the consultant confers, of the visit's purpose.

Concerning the proposal at § 1908.6(d)(2), one commenter noted that the section should be changed to include the employee representative in the discussion of the relationship between onsite consultation and OSHA enforcement activity. (Ex. 2: 162.) The section is intended to be a cautionary statement to the employer. The consultation agreement is between the consultant and the employer, and imposes no duty on the employee representative. That section of the final rule therefore directs those cautionary statements exclusively to the employer. In order to consolidate all the cautionary statements in one section, the language in § 1908.6(d)(3) is added to § 1908.6(d)(2.) Section 1908.6(d)(4) is renumbered as § 1908.6(d)(3).

The proposal at § 1908.6(e)(7), which provides that the consultant will assist the employer in the development of a hazard correction plan and provides a dispute resolution mechanism for the consultation project manager, is substantively the same as the language adopted and published in the **Federal Register** of June 1984 (49 FR 25094). The only changes to the paragraph was to replace the phrase "an identified serious hazard exists" with the phrase "a serious hazard exist" and to replace the word "shall" with "must". A few commenters, however, noted that the dispute resolution mechanism is an added burden, and that it gives the consultation program an enforcement flavor. (Ex. 2: 134, 152.) The intent of the section is to give the employer an opportunity to discuss any objections to the consultant's findings, categorization of hazards, or the established correction period with the consultation project manager. When an employer refuses to correct a serious hazard, it is eventually referred to OSHA for enforcement. It is therefore important for the consultation project manager to provide an informal forum to resolve any disputes or disagreements. This avenue for resolving disagreements between the employer and the consultant will become even more important with the new requirement to post the "List of Hazards".

With respect to the development of the hazard correction plan, some commenters wanted the section changed to grant employee representatives the right to participate in developing the hazard correction plan. (Ex. 2: 145, 159, 162, 189, 201.) OSHA agrees that employee participation in the development of the plan is desirable. Nevertheless, the responsibility of correcting hazards is solely the employer's. The consultant is required to assist the employer in developing the plan. However, the employer does not have to accept the consultant's assistance, and may choose to develop the plan on his or her own. By the same token, the employee representative may offer to assist the employer in developing the hazard correction plan. The employer is, however, free to accept or decline the offer.

At § 1908.6(e)(8), OSHA proposed to inform employees of hazards identified by the consultant by requiring the posting of a "List of Hazards", and by making a copy of the list available to the authorized employee representative who participates in the visit. Several commenters opposed the proposal, citing the following objections: (1) the list could be used adversely against the employer by OSHA, attorneys, competitors, and disgruntled employees; (2) posting the list will undermine the voluntary and confidential nature of the process; and (3) that the requirement is not in line with PL 105–197. (Ex. 2: 34, 98, 106, 110, 123, 124, 141, 154, 157, 171, 184, 188.) Another group of commenters asserted that employers participating in the process in good faith should not be forced to advertise hazards in their workplace. (Ex. 2: 19, 31, 32, 42, 46, 51, 66, 67, 72, 80, 101, 174.) There are several provisions in the final rule that are intended to assuage the concerns expressed. Section 1908.7(b)(1) will ensure that the employer is not subjected to OSHA enforcement while working within the established time frame to correct hazards identified by the consultant. In addition, the final rule includes language providing that complaints resulting from the posting of hazards will not result in enforcement action, as long as the employer is meeting his or her obligation with respect to interim protection and the correction time frame. Further, OSHA will require that the "List of Hazards" includes language that clearly states that the list is not a citation. It will acknowledge the employer's good faith effort in working cooperatively and voluntarily with the consultation project to provide a workplace free of

recognized hazards. OSHA believes that the list will serve the intent of Public Law 105–197 (as reflected in House Report 105–444 accompanying the Act) by providing a means to inform affected employees and their representatives of hazards in the workplace.

With regards to employer adherence to the posting requirements, some commenters were concerned that the proposal will be unenforceable. (Ex. 2: 86, 92, 131, 147.) An employer who agrees to the requirements for receiving the consultation service but subsequently refuses to post the "List of Hazards" will be deemed to have unilaterally terminated the consultation visit. Such an employer will not receive the benefit of any inspection deferrals, including the protection contained at § 1908.7(b)(1), and will be denied participation in the recognition and exemption program at § 1908.7(b)(4). Some commenters were of the opinion that the posting requirement entailed verification by consultants. They noted that verification of posting will be time consuming and will result in fewer actual consultative visits. (Ex. 2: 86, 89.) One commenter (Ex. 2: 92) stated that it will be impractical to require verification of posting, while others (Ex. 2: 32, 165) noted that it should be the responsibility of the employer to inform his or her employees of hazards in the workplace. While OSHA agrees that it is the duty of the employer to identify and inform employees of the hazards in the workplace, OSHA feels that the consultant also has an obligation to inform employees of identified hazards that could cause injury, illness, or death. As such, OSHA believes that the "List of Hazards" is a continuation of the communication between the consultant and the beneficiaries of the service, and could be the beginning of the dialogue on workplace safety and health between the employer and his employees. The employer is responsible for providing additional information to his employees as needed. On the issue of follow-up visits, OSHA will not require any additional visits beyond what is presently required. Requirements to inform employees about hazards are not, in fact, an entirely new addition to the consultation program. As indicated in some of the comments received, some states already require posting or sharing of the report with employees without a detrimental effect on their program. Furthermore, several employers stated that they always post and share the consultant's report with their employees, or that they have no objection to the proposal. (Ex. 2: 3, 10, 11, 49, 52, 83, 107, 125, 136, 158.) In addition, the revised regulation does not prohibit posting by electronic means. While in most instances it will be necessary to post a hard copy of the list of identified hazards in order to provide adequate notice to affected employees, posting may be by electronic means when the employer demonstrates that electronic transmission is the employer's normal means of providing notices to employees; that each employee is equipped with an electronic communication device; and that electronic posting will provide notice to each affected employee equivalent to hard-copy posting at the worksite.

At § 1908.6(h)(2), OSHA proposed to add a provision expressly designating consultation data which identifies employers who have requested or received a consultation visit as confidential information. In a related provision dealing specifically with the consultant's written report, OSHA proposed a new § 1908.6(g)(2) which would have provided that consultant's written reports shall not be disclosed by the state except to the employer for whom it was prepared, or, upon request, to OSHA for use in any relevant enforcement proceedings. As discussed below, a provision for non-disclosure of consultation data to the public is included in today's final rule. Provisions relating to access to the consultant's report for enforcement however, have been revised in light of extensive comment received from states and other participants.

Nondisclosure to the public of consultation data: The final rule at § 1908.7(h)(2) allows OSHA to obtain employer specific information for evaluating the consultation program. As was explained in the proposed rule, non-enforcement federal OSHA personnel must at times obtain access to confidential material during the course of evaluating state consultation programs or rendering program assistance. OSHA has needed access to such information more frequently in recent years as the agency has begun to incorporate consultation program information in federal databases such as the Integrated Management Information System (IMIS), and as the agency has implemented the program measurement activity mandated by the Government Performance and Results Act (GPRA). Federally-collected data includes, for example, worksite-specific injury and illness data to help measure the effect of the consultation program on participating employers' injury and illness rates.

Consultation-related information retained by federal OSHA is generally subject to the federal Freedom of Information Act (FOIA), 5 U.S.C. 552. The FOIA provides that records maintained by federal agencies must be disclosed to members of the public upon request unless one of the nine exemptions listed in the act applies. Exemption 4 of the FOIA exempts from disclosure "commercial or financial information obtained from a person [that is] privileged or confidential." Information that relates to an employer's business decision to engage a consultant, and workplace information reviewed by that consultant during the visit, would appear to qualify as "commercial" information as that term has been broadly construed by the courts. Information collected by consultants under 29 CFR part 1908 is clearly "obtained by a person" within the meaning of FOIA.

OSHA believes that such information also qualifies as "confidential", the remaining criterion for non-disclosure under Exemption 4. Federal court decisions establish that commercial information voluntarily submitted by a person to the government is "confidential" if it is the kind of information not customarily made public by the person from whom it was obtained. *Critical Mass Energy Project* v. *NRC,* 975 F.2d 871 ("Critical Mass III)(D.C. Cir. 1992). Even if submission of the information were mandatory, the information would qualify as confidential under Exemption 4 if disclosure would impair the effectiveness of the government program under which the information was submitted. *Critical Mass Energy Project* v. *NRC,* 931 F.2d 939, 944–45 ("Critical Mass II") (D.C. Cir. 1990).

States and employers who filed comments almost unanimously predicted a sharp fall off in employer participation if confidentiality could not be guaranteed, a belief also emphasized in comments by OSHCON. (Ex. 2: 147.) The American Society of Safety Engineers stated that in the private sector it would be considered an ethical violation for a consultant to disclose an employer's identity without his consent. (Ex. 2: 109.) Most states indicated the material is now treated as confidential.

OSHA finds that site specific information and data collected by consultants during the consultation visit generally constitutes confidential commercial information under FOIA exemption 4, and qualifies for protection from release to the public. OSHA believes that the public disclosure provisions of proposed § 1908.6(g) and (h) are necessary both to

protect the confidentiality interests of employers in confidential commercial information voluntarily provided to the state consultant, and to avoid the potential damage which widespread disclosure might do to this voluntary program whose objective is to promote the correction of workplace hazards by assuring continued participation of employers. Accordingly, the final rule includes provisions for non-disclosure of such information. Additionally, although OSHA has revised the wording of proposed § 1908.6(g) relating to OSHA access, the requirement that the consultant's written report may be disclosed only to the employer for whom it was prepared, which reflects the status of these reports as confidential commercial information not subject to public disclosure, has been retained in the final rule.

Access to consultant's reports for enforcement purposes: The proposed § 1908.6(g) would, among other things, have required states to provide a copy of a consultant's written report to OSHA upon request, for use in enforcement proceedings to which the information was relevant. Although the preamble to the proposal stated that the enforcement cases in which OSHA would seek to obtain these reports have been and would continue to be extremely rare, the volume of comments in opposition to this proposal has caused the agency to carefully reexamine this issue and revise the language of the final rule. A number of commenters, including state agencies, expressed concern that the proposal undermines the wall of separation between the consultation projects and OSHA, and some argued the proposal violates the spirit of the CAAA. Several commenters worried that the proposal will lead to decreased usage and ultimate demise of the program (Ex. 2: 13, 39, 92, 188,) and many employers stated they would not use the services of state consultants if they were not assured of confidentiality. (Ex. 2: 3, 59, 107, 160, 183.) A group of commenters, however, agreed with the proposal, asserting that it strikes the proper balance between the use of the service by the employer and the need for employee protection. (Ex. 2: 25, 133.) Several state agencies proposed that, when necessary, OSHA should obtain the report from the employer rather than the state. (Ex. 2: 77, 134, 145, 162, 165, 181, 189.) OSHA shares the concern of the commenters that the perception of routine access to these reports for enforcement purposes would adversely affect employer participation in the consultation program. OSHA recognizes the need to preserve a careful balance between ensuring effective worker protection and encouraging employer participation. Accordingly, the final rule has been revised to further limit and specify situations in which consultation reports could be used for enforcement purposes. First, the final rule eliminates a proposed provision of § 1908.6, to which many states objected, which would have required state consultants or consultation agencies to furnish written consultation reports to OSHA "upon request" for enforcement use. Subsection 1908.6(g) of the final rule has been rephrased to make clear that state consultation agencies will be required to furnish their written reports to OSHA only as provided in § 1908.7(a)(3)—that is, only when the state makes a referral to enforcement because an employer has failed to correct a hazard identified by the consultant, or where there is information in the report to which access must be provided under 29 CFR 1910.1020 or other applicable OSHA standards or regulations.

Moreover, OSHA has removed from the text of § 1908.6(g)(2) the broad language which would have given OSHA unlimited access to the consultant's written report in "enforcement proceedings to which the information is relevant." The final rule allows OSHA more limited access. Aside from rare instances in which OSHA will seek a copy of the report as part of the § 1908.6(f)(4) referral process, the revised § 1908.7(c)(3) provides that OSHA may obtain the report from the employer only where OSHA independently determines there is reason to believe that the employer has failed to correct hazards identified by a consultant or created the same hazards again, or has made false statements to the state or OSHA in connection with participation in the consultation program. Once an OSHA inspection (or investigation) independently results in the identification of hazards in the workplace, the employer and employee interview as well as a review of documents provided by the employer may yield information that indicates that the hazard had been previously identified but had not been corrected by the employer, or that the employer had allowed the hazard to reoccur.

Related to the concerns about the confidentiality of the consultants' written report, one commenter expressed concern that the confidentiality provisions of the proposed rule would conflict with the access rights of certified collective bargaining representations under the National Labor Relations Act (NLRA). (Ex. 2:162.) The final rule places no limitations on disclosure of consultation-related reports or information by the employer with whom the consultation was performed, and in no way limits the access rights of an employee organization under a collective bargaining agreement or the NLRA.

Section 1908.7 Relationship to Enforcement

This section generally provides that the state consultation program be operated independently of federal and state OSHA enforcement programs. This principle of independent program administration is reflected in current and previous versions of 29 CFR part 1908, and is consistent with section 21(d) of the OSH Act. The proposed changes at § 1908.7(a)(3) were intended to clarify the limits of information-sharing between consultation and enforcement to achieve common program objectives. OSHA believes that information sharing under § 1908.7(a)(3) is critical to ensure that qualified employers are granted inspection exemptions and deferrals, and that the files of employers not meeting their obligation are forwarded to OSHA for enforcement action. The final rule is changed to delete references to the confidentiality provision in § 1908.6(g)(2) and (h)(2), and to add the inspection deferral provision under § 1908.7(b)(1).

At § 1908.7(b)(1), OSHA proposed to change the meaning of consultative visit "in progress". One commenter was concerned that "in progress" could become open ended and allow excessive correction due dates. The commenter suggested that a cap of 60 days should be placed on the duration of consultative visits "in progress". (Ex. 2:6.) OSHA is mindful of the concern expressed by this commenter. However, OSHA believes that consultation projects are in the best position to determine reasonable correction due dates and are therefore better able to establish the cap on consultative visits "in progress" on a case-by-case basis. OSHA intends through its monitoring and evaluation of the consultation projects to assist the states in maintaining a reasonable schedule of "correction due dates". A number of commenters expressed strong support for the proposed change to the meaning of the consultation visit "in progress", observing that the change allows the employer to complete the corrective action as part of the consultative process. (Ex. 2: 1, 24, 86, 89, 92, 119, 131, 134, 147, 149, 157, 165.) One commenter noted that the proposal does not go far enough. That commenter

wanted consultation "in progress" to extend from "when a request is received by the Consultation Program through the end of the correction period, including any approved extensions". The commenter additionally recommended that language be added to the provision that permits OSHA, in scheduling compliance inspections, to grant lower priority to worksites that have completed a consultative visit. (Ex. 2: 77.) One commenter noted that in his state, consultation in progress begins 10 days before the opening conference and terminates at the end of the correction due dates. (Ex. 2: 188.) OSHA believes that the language in § 1908.7(b)(1) (inspection deferral to sites with consultative visit pending,) and (b)(4)(i)(A) (inspection deferrals to sites working to achieve recognition and exemption status,) together with the expanded meaning of the consultation visit "in progress", provide flexibility for granting inspection deferrals to employers who are committed to working with the consultation projects.

The proposal at § 1908.7(b)(4) was intended to provide the framework for a recognition and exemption program that replaces the "inspection exemption through consultation". There were two aspects to the proposal. Section 1908.7(b)(4)(i)(A) was designed to allow OSHA in exercising its authority to schedule compliance activity to defer inspections to sites working with the consultation projects to achieve the recognition and exemption status, while § 1908.7(b)(4)(i)(B) established the minimum standard for achieving the recognition and exemption status.

A few commenters wanted a clarification of the use of the word "may" instead of "shall" in the proposal in section 1908.7(b)(4)(i)(A). (Ex. 2: 9, 13, 34.) Some commenters stated that the proposal was inconsistent with section 21(d) of the CAAA. OSHA's experience with the "inspection exemption through consultation" program cautions against granting mandatory inspection exemptions or deferrals where the requirement for achieving an acceptable level of performance is subject to varied interpretations. Further, states operating their own enforcement programs should have reasonable flexibility to determine how best to achieve the objective of this section. OSHA's position is supported by the language at section 21(d)(4) of the CAAA. OSHA will provide guidelines to the States to ensure uniformity in developing acceptable milestones for inspection deferrals, and to ensure that states will only grant deferrals to employers working with the consultation projects to achieve specific milestones. One commenter objected to the section, noting that the reference to "effective safety and health program" is OSHA's way of forcing employers to implement requirements beyond the intent of the CAAA. (Ex. 2: 17.) The reference to "effective safety and health program" does not impose requirements beyond the scope of the CAAA. OSHA notes that the section 21 (d)(4)(C) of the CAAA reflects the framework of an effective safety and health program. These criteria are further described in OSHA's voluntary Safety and Health Program Management Guidelines, which was published in 1989 to help employers establish and maintain management systems to protect their workers. OSHA's experience with the Safety and Health Achievement Recognition Program (SHARP) and with the Voluntary Protection Program (VPP) has shown that the guidelines can be implemented successfully by employers regardless of size. OSHA believes that the criteria set forth in § 1908.7(b)(4)(i)(B), including the "safety and health program" requirement, are needed to demonstrate that type of commitment and ensure the continued protection of employees' safety and health even with a lower level of inspection activity. It is important to note that in addition to granting inspection exemptions to employers with exemplary safety and health programs, this section also contains provisions allowing OSHA to grant inspection deferrals to employers working towards an effective safety and health program with respect to hazards covered by the Act.

Several commenters expressed their support for the recognition and inspection exemption provision at § 1908.7(b)(4)(i)(B). (Ex. 2: 1, 50, 54, 73, 119, 134, 164.) A few states operating their own enforcement programs indicated their satisfaction with the section, noting that it would allow them the flexibility of adopting and implementing their own program. (Ex. 2: 1, 9, 137.) One commenter objected to the requirement that states operating their own enforcement adopt an equivalent "recognition and exemption" program. (Ex. 2: 25.) OSHA believes that a "recognition and exemption" program achieves multiple purposes, two of which are to encourage employers to work towards voluntary compliance with the requirements of the OSH Act and to allow enforcement programs to strategically focus their resources. OSHA believes that all employers should have the opportunity to showcase their excellence, to be recognized for their achievement, and to be exempted from inspections where appropriate. The requirement of this section is therefore maintained without change in the final rule.

Under § 1908.7(c)(3), the employer is not required to provide a copy of the state consultant's report to a compliance officer. As noted in the discussion on confidentiality of the consultant's written report (§ 1908.6(g)(2),) several states urged that when needed the report should be obtained from the employer and not from the project. One state agency, while asserting that states should be allowed to keep the consultant's written report confidential, recommended that the current confidentiality rule be maintained, and that section 1908.7(c)(3) should be deleted to allow OSHA to obtain the report directly from the employer when necessary. (Ex. 2: 165.) As previously mentioned in the discussion under confidentiality of the consultants' written report, several state agencies were similarly inclined. Because this section of the rule is very important in furthering OSHA's policy of not allowing compliance officers to make initial requests for the consultant's written report and not allowing the use of the report as a means of identifying hazards upon which to focus inspection activity, the final rule includes a revised 7(c)(3). The new rule now provides that while employers generally will not be required to provide a copy of the consultant's report to the compliance officer during a subsequent enforcement visit, OSHA may obtain the report from the employer when OSHA independently determines there is reason to believe that the employer failed to correct serious hazards identified during the course of a consultation visit; created the same hazard again; or made false statements to the state or OSHA in connection with participation in the consultation program.

III. Final Economic Analysis

The OSHA onsite consultation program is entirely voluntary both for employers who seek this free service and for states which elect to provide it. Some of the new procedures codified in today's final rule may add incrementally to the time or cost incurred in providing OSHA-funded consultation services, but OSHA believes that any additional demand on resources will be more than offset by the benefits of employee participation, and will not have any significant measurable economic impact either on employers or state consultation agencies. The provision that consultation visits include an opportunity for employee participation

is unlikely to add significantly to the time spent by state consultants in conducting their visits. OSHA's consultation program directive has for many years required an opportunity for walkaround participation by the authorized representative in unionized facilities which are undergoing a consultation visit. A review of our Integrated Management Information System (IMIS) data indicates that in fiscal year 1998, there was some form of employee participation in all consultation visits. The IMIS data indicate that a majority of visits included some degree of employee participation in the walkaround, and many employers have voluntarily allowed participation including opening and closing conferences, walkaround, and employee interviews.

The requirements included in these revisions to part 1908 are a codification of what already exists in practice and will ensure that employees are afforded an opportunity to participate in all aspects of the consultation visit. Employee participation will produce heightened awareness by the workforce and will result in a positive contribution to ensure a safer and healthier workplace. OSHA believes that the economic cost to employers resulting from employee involvement in consultation visits is minimal, and in any event employers receive these consultative services free of charge, and no employer is required to undergo a consultation visit. Similarly, OSHA believes that the final rule's provision requiring notification of employees of hazards identified during the consultation visit (i.e. posting the list of serious hazards, requiring the employer to make information on corrective actions and other-than-serious hazards available to affected employees and employee representatives) will increase the responsibilities of participating employers only slightly. This cost however, is more than offset by the value of greater employee participation in the consultation process and enhanced employee awareness.

Finally, provisions of the final rule dealing with the availability of the consultant's written report for enforcement purposes have been modified from those in the proposal in response to numerous state comments that unrestricted availability of this information to compliance officers would discourage employers from requesting consultation visits. OSHA believes that continued employer participation is essential to the success of this program. The agency has formulated a final rule which balances confidentiality of consultation visits with the ultimate objective of ensuring the correction of workplace hazards.

IV. Executive Order 12866

In terms of economic impact, the rule proposed today does not constitute an economically significant regulation within the meaning of Executive Order 12866, because it does not have an annual effect on the economy of $100 million or more; materially affect any sector of the economy; interfere with the programs of other agencies; materially affect the budgetary impact of grant or entitlement programs; nor result in other adverse effects of the kind specified in the Executive Order. However, it is deemed to be a significant regulation because it raises novel legal and policy issues, and has therefore been reviewed and approved by OMB under Executive Order 12866.

V. Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Assistant Secretary hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Participation in the consultation program both by states and employers is entirely voluntary. The state agencies which have elected to furnish onsite consultation services under cooperative agreements with OSHA are not covered entities under the RFA. Since the consultation program is historically targeted to small, high-hazard workplaces, employers affected by the rule would tend to include a substantial number of small entities but, as indicated in the foregoing discussion of regulatory impacts, the final rule should have virtually no measurable economic impact on employers.

VI. Paperwork Reduction Act

This final rule contains collection of information requirements which are identical to those in the existing consultation agreement regulations, except that OSHA is adding a new requirement for the states to generate and transmit a "List of Hazards" identified during the visit to the employer, and for the employer to post the list. Under the Paperwork Reduction Act of 1995, all collection of information requirements must be submitted to OMB for approval. The existing requirements for collection of information are approved by OMB under control number 1218–0110. As a first step in its review of the rule being issued today, OSHA published a request for public comment on information collection in the **Federal Register** (63 FR 67702) on December 8, 1998. That request included additional collections anticipated with the revision of this rule. OSHA received no comments on existing and the proposed information collection. OSHA has submitted a request to OMB for revision of the currently approved collection to reflect the paperwork requirements imposed by this final rule.

VII. Federalism

Executive Order 13132, "Federalism" (64 FR 43255; August 10, 1999,) sets forth fundamental federalism principles, federalism policymaking criteria, and provides for consultation by federal agencies with state or local governments when policies are being formulated which potentially affect them. The revisions to 29 CFR part 1908 were issued as a proposed rule on July 2, 1999, prior to the effective date of this Executive Order, and accordingly the specific intergovernmental consultation process provided under this Executive Order was not conducted. However, as discussed below, OSHA has engaged in extensive discussion of the proposed rule with affected state agencies, and has incorporated many of the concerns expressed by affected states in the language of the final rule issued today.

Federal OSHA meets regularly with representatives of state-operated onsite consultation programs, both individually and at meetings of the National Association of Occupational Safety and Health Consultation Programs (OSHCON). OSHA additionally has established a Consultation Steering Committee on which both OSHA and the states are represented. OSHA also maintains extensive and frequent communications with its state plan partner agencies, both individual states and through the Occupational Safety and Health State Plan Association (OSHSPA), the association of state plan states. The revisions to part 1908 have been discussed with all affected states via OSHCON, the Consultation Steering Committee and the OSHSPA, and many state comments are already reflected in the proposal being issued today.

OSHA has reviewed the revisions to part 1908 and finds them to be consistent with the policymaking criteria outlined in Executive Order 13132. It should be noted that cooperative agreements pursuant to section 21 of the OSH Act, and state plans submitted and approved under section 18 of the Act, are entirely voluntary federal programs which do not involve imposition of an intergovernmental mandate and accordingly are not covered by the

Unfunded Mandates Reform Act, *see* 2 U.S.C. 1502, 658(5). The designated federalism official for the Department of Labor has certified that OSHA has complied with the requirements of Executive Order 13132 for these revisions to 29 CFR part 1908.

VIII. Authority

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under sections 7(c), 8, and 21(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656, 657, 670) and Secretary of Labor's Order No. 6–96 (62 FR 111, January 2, 1997).

List of Subjects in 29 CFR Part 1908

Confidential business information, Grant programs—labor, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

Signed this 16 day of October, 2000 in Washington, DC.

Charles N. Jeffress,

Assistant Secretary of Labor.

Accordingly, 29 CFR part 1908 is amended as set forth below:

PART 1908—CONSULTATION AGREEMENTS

1. The authority citation for 29 CFR part 1908 is revised to read as follows:

Authority: Secs. 7(c), 8, 21(d), Occupational Safety and Health Act of 1970 (29 U.S.C. 656, 657, 670) and Secretary of Labor's Order No. 6–96 (62 FR 111, January 2, 1997).

2. Section 1908.1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1908.1 Purpose and scope.

(a) This part contains requirements for Cooperative Agreements between states and the Federal Occupational Safety and Health Administration (OSHA) under sections 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) and section 21(d), the Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 (which amends the Occupational Safety and Health Act,) under which OSHA will utilize state personnel to provide consultative services to employers. Priority in scheduling such consultation visits must be assigned to requests received from small businesses which are in higher hazard industries or have the most hazardous conditions at issue in the request. Consultation programs operated under the authority of a state plan approved under Section 18 of the Act (and funded under Section 23(g), rather than under a Cooperative Agreement) which provide consultative services to private sector employers, must be "at least as effective as" the section 21(d) Cooperative Agreement programs established by this part. The service will be made available at no cost to employers to assist them in establishing effective occupational safety and health programs for providing employment and places of employment which are safe and healthful. The overall goal is to prevent the occurrence of injuries and illnesses which may result from exposure to hazardous workplace conditions and from hazardous work practices. The principal assistance will be provided at the employer's worksite, but off-site assistance may also be provided by telephone and correspondence and at locations other than the employer's worksite, such as the consultation project offices. At the worksite, the consultant will, within the scope of the employer's request, evaluate the employer's program for providing employment and a place of employment which is safe and healthful, as well as identify specific hazards in the workplace, and will provide appropriate advice and assistance in establishing or improving the employer's safety and health program and in correcting any hazardous conditions identified.

* * * * *

(c) States operating approved Plans under section 18 of the Act shall, in accord with section 18(b), establish enforcement policies applicable to the safety and health issues covered by the State Plan which are at least as effective as the enforcement policies established by this part, including a recognition and exemption program.

3. Section 1908.2 is amended by revising the definitions of "Employee", "Employer", "Other-than-serious hazard", and "Serious-hazard", and by adding, in alphabetical order, the definitions of "Employee representative", "List of Hazards", "Programmed inspection", "Programmed inspection schedule", and "Recognition and exemption program" to read as follows:

§ 1908.2 Definitions.

* * * * *

Employee means an employee of an employer who is employed in the business of that employer which affects interstate commerce.

Employee representative, as used in the OSHA consultation program under this part, means the authorized representative of employees at a site where there is a recognized labor organization representing employees.

Employer means a person engaged in a business who has employees, but does not include the United States (not including the United States Postal Service,) or any state or political subdivision of a state.

* * * * *

List of Hazards means a list of all serious hazards that are identified by the consultant and the correction due dates agreed upon by the employer and the consultant. Serious hazards include hazards addressed under section 5(a)(1) of the OSH Act and recordkeeping requirements classified as serious. The List of Hazards will accompany the consultant's written report but is separate from the written report to the employer.

* * * * *

Other-than-serious hazard means any condition or practice which would be classified as an other-than-serious violation of applicable federal or state statutes, regulations or standards, based on criteria contained in the current OSHA field instructions or approved State Plan counterpart.

Programmed inspection means OSHA worksite inspections which are scheduled based upon objective or neutral criteria. These inspections do not include imminent danger, fatality/catastrophe, and formal complaints.

Programmed inspection schedule means OSHA inspections scheduled in accordance with criteria contained in the current OSHA field instructions or approved State Plan counterpart.

* * * * *

Recognition and exemption program means an achievement recognition program of the OSHA consultation services which recognizes small employers who operate, at a particular worksite, an exemplary program that results in the immediate and long term prevention of job related injuries and illnesses.

Serious hazard means any condition or practice which would be classified as a serious violation of applicable federal or state statutes, regulations or standards, based on criteria contained in the current OSHA field instructions or approved State Plan counterpart, except that the element of employer knowledge shall not be considered.

* * * * *

4. Section 1908.3 is amended by revising paragraph (a) to read as follows:

§ 1908.3 Eligibility and funding.

(a) *State eligibility.* Any state may enter into an agreement with the Assistant Secretary to perform consultation for private sector employers; except that a state having a plan approved under section 18 of the Act is eligible to participate in the program only if that Plan does not include provisions for federally funded consultation to private sector employers as a part of its plan.

* * * * *

5. Section 1908.5 is amended by revising paragraphs (a)(3) and (b)(1) to read as follows:

§ 1908.5 Requests and scheduling for onsite consultation.

(a) * * *

(3) *Scope of service.* In its publicity for the program, in response to any inquiry, and before an employer's request for a consultative visit may be accepted, the state shall clearly explain that the service is provided at no cost to an employer with federal and state funds for the purpose of assisting the employer in establishing and maintaining effective programs for providing safe and healthful places of employment for employees, in accord with the requirements of the applicable state or federal laws and regulations. The state shall explain that while utilizing this service, an employer remains under a statutory obligation to provide safe and healthful work and working conditions for employees. In addition, while the identification of hazards by a consultant will not mandate the issuance of citations or penalties, the employer is required to take necessary action to eliminate employee exposure to a hazard which in the judgment of the consultant represents an imminent danger to employees, and to take action to correct within a reasonable time any serious hazards that are identified. The state shall emphasize, however, that the discovery of such a hazard will not initiate any enforcement activity, and that referral will not take place, unless the employer fails to eliminate the identified hazard within the established time frame. The state shall also explain the requirements for participation in the recognition and exemption program as set forth in § 1908.7(b)(4), and shall ensure that the employer understands his or her obligation to post the List of Hazards accompanying the consultant's written report.

(b) *Employer requests.* (1) An onsite consultative visit will be provided only at the request of the employer, and shall not result from the enforcement of any right of entry under state law.

* * * * *

6. Section 1908.6 is amended by:

a. Revising paragraphs (b), (c)(2), (d), (e)(7), (e)(8), and (f)(2);

b. Redesignating the text of paragraph (g) following the paragraph heading as paragraph (g)(1);

c. Redesignating the text of paragraph (h) following the paragraph heading as paragraph (h)(1); and

d. Adding new paragraphs (g)(2) and (h)(2).

The revisions and additions read as follows:

§ 1908.6 Conduct of a visit.

* * * * *

(b) *Structured format.* An initial onsite consultative visit will consist of an opening conference, an examination of those aspects of the employer's safety and health program which relate to the scope of the visit, a walkthrough of the workplace, and a closing conference. An initial visit may include training and education for employers and employees, if the need for such training and education is revealed by the walkthrough of the workplace and the examination of the employer's safety and health program, and if the employer so requests. The visit shall be followed by a written report to the employer. Additional visits may be conducted at the employer's request to provide needed education and training, assistance with the employer's safety and health program, technical assistance in the correction of hazards, or as necessary to verify the correction of serious hazards identified during previous visits. A compliance inspection may in some cases be the basis for a visit limited to education and training, assistance with the employer's safety and health program, or technical assistance in the correction of hazards.

(c) * * *

(2)(i) In addition, an employee representative of affected employees must be afforded an opportunity to accompany the consultant and the employer's representative during the physical inspection of the workplace. The consultant may permit additional employees (such as representatives of a joint safety and health committee, if one exists at the worksite) to participate in the walkaround, where the consultant determines that such additional representatives will further aid the visit.

(ii) If there is no employee representative, or if the consultant is unable with reasonable certainty to determine who is such a representative, or if the employee representative declines the offer to participate, the consultant must confer with a reasonable number of employees concerning matters of occupational safety and health.

(iii) The consultant is authorized to deny the right to accompany under this section to any person whose conduct interferes with the orderly conduct of the visit.

(d) *Opening and closing conferences.* (1) The consultant will encourage a joint opening conference with employer and employee representatives. If there is an objection to a joint conference, the consultant will conduct separate conferences with employer and employee representatives. The consultant must inform affected employees, with whom he confers, of the purpose of the consultation visit.

(2) In addition to the requirements of paragraph (c) of this section, the consultant will, in the opening conference, explain to the employer the relationship between onsite consultation and OSHA enforcement activity, explain the obligation to protect employees in the event that certain hazardous conditions are identified, and emphasize the employer's obligation to post the List of Hazards accompanying the consultant's written report as described in paragraph (e)(8) of this section.

(3) At the conclusion of the consultation visit, the consultant will conduct a closing conference with employer and employee representatives, jointly or separately. The consultant will describe hazards identified during the visit and other pertinent issues related to employee safety and health.

(e) * * *

(7) At the time the consultant determines that a serious hazard exists, the consultant will assist the employer to develop a specific plan to correct the hazard, affording the employer a reasonable period of time to complete the necessary action. The state must provide, upon request from the employer within 15 working days of receipt of the consultant's report, a prompt opportunity for an informal discussion with the consultation manager regarding the period of time established for the correction of a hazard or any other substantive finding of the consultant.

(8) As a condition for receiving the consultation service, the employer must agree to post the List of Hazards accompanying the consultant's written report, and to notify affected employees when hazards are corrected. When received, the List of Hazards must be posted, unedited, in a prominent place where it is readily observable by all

affected employees for 3 working days, or until the hazards are corrected, whichever is later. A copy of the List of Hazards must be made available to the employee representative who participates in the visit. In addition, the employer must agree to make information on the corrective actions proposed by the consultant, as well as other-than-serious hazards identified, available at the worksite for review by affected employees or the employee representative. OSHA will not schedule a compliance inspection in response to a complaint based upon a posted List of Hazards unless the employer fails to meet his obligations under paragraph (f) of this section, or fails to provide interim protection for exposed employees.

(f) * * *

(2) An employer must also take the necessary action in accordance with the plan developed under paragraph (e)(7) of this section to eliminate or control employee exposure to any identified serious hazard, and meet the posting requirements of paragraph (e)(8) of this section. In order to demonstrate that the necessary action is being taken, an employer may be required to submit periodic reports, permit a follow-up visit, or take similar action that achieves the same end.

* * * * *

(g) *Written report.* (1) * * *

(2) Because the consultant's written report contains information considered confidential, and because disclosure of such reports would adversely affect the operation of the OSHA consultation program, the state shall not disclose the consultant's written report except to the employer for whom it was prepared and as provided for in § 1908.7(a)(3). The state may also disclose information contained in the consultant's written report to the extent required by 29 CFR 1910.1020 or other applicable OSHA standards or regulations.

(h) *Confidentiality.* (1) * * *

(2) Disclosure of consultation program information which identifies employers who have requested the services of a consultant would adversely affect the operation of the OSHA consultation program as well as breach the confidentiality of commercial information not customarily disclosed by the employer. Accordingly, the state shall keep such information confidential. The state shall provide consultation program information requested by OSHA, including information which identifies employers who have requested consultation services. OSHA may use such information to administer the consultation program and to evaluate state and federal performance under that program, but shall, to the maximum extent permitted by law, treat information which identifies specific employers as exempt from public disclosure.

* * * * *

7. Section 1908.7 is amended by revising paragraphs (a)(3), (b)(1), (b)(4), (b)(5) and (c)(3) to read as follows:

§ 1908.7 Relationship to enforcement.

(a) * * *

(3) The identity of employers requesting onsite consultation, as well as the file of the consultant's visit, shall not be provided to OSHA for use in any compliance activity, except as provided for in § 1908.6(f)(1) (failure to eliminate imminent danger,) § 1908.6(f)(4) (failure to eliminate serious hazards,) paragraph (b)(1) of this section (inspection deferral) and paragraph (b)(4) of this section (recognition and exemption program).

(b) *Effect upon scheduling.* (1) An onsite consultative visit already in progress will have priority over OSHA compliance inspections except as provided in paragraph (b)(2) of this section. The consultant and the employer shall notify the compliance officer of the visit in progress and request delay of the inspection until after the visit is completed. An onsite consultative visit shall be considered "in progress" in relation to the working conditions, hazards, or situations covered by the visit from the beginning of the opening conference through the end of the correction due dates and any extensions thereof. OSHA may, in exercising its authority to schedule compliance inspections, assign a lower priority to worksites where consultation visits are scheduled.

* * * * *

(4) The recognition and exemption program operated by the OSHA consultation projects provide incentives and support to smaller, high-hazard employers to work with their employees to develop, implement, and continuously improve the effectiveness of their workplace safety and health management system.

(i) *Programmed Inspection Schedule.* (A) When an employer requests participation in a recognition and exemption program, and undergoes a consultative visit covering all conditions and operations in the place of employment related to occupational safety and health; corrects all hazards that were identified during the course of the consultative visit within established time frames; has began to implement all the elements of an effective safety and health program; and agrees to request a consultative visit if major changes in working conditions or work processes occur which may introduce new hazards, OSHA's Programmed Inspections at that particular site may be deferred while the employer is working to achieve recognition and exemption status.

(B) Employers who meet all the requirements for recognition and exemption will have the names of their establishments removed from OSHA's Programmed Inspection Schedule for a period of not less than one year. The exemption period will extend from the date of issuance by the Regional Office of the certificate of recognition.

(ii) *Inspections.* OSHA will continue to make inspections in the following categories at sites that achieved recognition status and have been granted exemption from OSHA's Programmed Inspection Schedule; and at sites granted inspection deferrals as provided for under paragraph (b)(4)(i)(A) of this section:

(A) Imminent danger.

(B) Fatality/Catastrophe.

(C) Formal Complaints.

(5) When an employer requests consideration for participation in the recognition and exemption program under paragraph (b)(4) of this section, the provisions of § 1908.6(e)(7), (e)(8), (f)(3), and (f)(5) shall apply to other-than-serious hazards as well as serious hazards.

(c) * * *

(3) In the event of a subsequent inspection, the employer is not required to inform the compliance officer of the prior visit. The employer is not required to provide a copy of the state consultant's written report to the compliance officer, except to the extent that disclosure of information contained in the report is required by 29 CFR 1910.1020 or other applicable OSHA standard or regulation. If, during a subsequent enforcement investigation, OSHA independently determines there is reason to believe that the employer: failed to correct serious hazards identified during the course of a consultation visit; created the same hazard again; or made false statements to the state or OSHA in connection with participation in the consultation program, OSHA may exercise its authority to obtain the consultation report.

* * * * *

Note: The following attachment will not appear in the Code of Federal Regulations.

Attachment I to Preamble

Exhibit 2—Commenters on Proposal

2:1 Virginia Anklin, Maryland OSHA, Laurel, MD
2:2 Benjamin Studebaker, Principal Safety Engineer, Videojet Systems International, Wood Dale, IL
2:3 Jill Davis, Safety & Health Director, Federal Foam Technologies, Ellsworth, WI
2:4 Jim Ramsay, The Kansas Contractors Association, Inc., Topeka, KS
2:5 Carin Clauss, Professor of Law, University of Wisconsin-Madison, Madison, WI
2:6 Richard Terrill, Regional Administrator, OSHA, Seattle, WA
2:7 Dick Hughes, Executive Vice President, Excellence in Safety, Inc., Falmouth, MA
2:8 Wyatt Buchanan, Regulatory Compliance Director, C.H. Thompson Co., Incorporated, Binghamton, NY
2:9 John Barr, Commissioner, Virginia Dept. of Labor and Industry, Richmond, VA
2:10 Leland Slay, Vice President of Human/ Industrial Relations, Associated Grocers of the South, Birmingham, AL
2:11 Diane Coppage, Corporate Secretary, Owego Contracting Co., Inc., Candor, NY
2:12 Howard Egerman, National Health and Safety Representative, American Federation of Government Employees, Oakland, CA
2:13 Charles Kramer, Consultation Officer, OSHA Region III, Philadelphia, PA
2:14 John Hartman, President, JH Robotics, Inc., Johnson City, NY
2:15 Paul Sadlon, Administrator, Susquehanna Nursing Home, Johnson City, NY
2:16 Raelyn Pearson, Treasurer, Washburn Iron Works, Inc., Washburn, WI
2:17 Cass Ballenger, Chairman, House Subcommittee on Workforce Protection, Washington, D.C.
2:18 Gerald Taylor, President, Milwaukee Machine and Engineering Corp., New Berlin, WI
2:19 Francis Sawyer, Secretary/Treasurer, Acro-Fab, Hannibal, NY
2:20 Gilbert Jones, Chief Financial Officer, Darman Manufacturing Co, Inc., Utica, NY
2:21 Steven Quandt, Executive Vice President, Columbus Chemical Industries, Columbus, NY
2:22 David Mlekoday, Facility Manager, Milwaukee Center for Independence, Milwaukee, WI
2:23 Anthony DiRenzio, DiRenzio Bros. Bakery, Inc., Binghamton, NY
2:24 Donald Heckler, Acting Director, Connecticut OSHA, Wethersfield, CT
2:25 Mel James, Consultation-Compliance Manager, WISHA, Olympia, WA
2:27 Mary Werheim, President, Stanek Tool, New Berlin, WI
2:28 Ken Woodring, General Manager, Dern Moore Machine Company, Lockport, NY
2:29 Robin Gynnild, Human Resources and Safety Director, Bauman Construction of Chippewa Falls, Chippewa Falls, WI
2:30 Matthew Cady, Safety Manager, Ark-Les, U.S. Controls Corp., New Berlin, WI
2:31 Donna Haley, Onandaga Asphalt Products, LLE., East Syracuse, NY
2:32 Brian Letcher, President, Syracuse Constructors, Inc. East Syracuse, NY
2.33 Patrick Foley, Foley Wood Products, , Inc., Ellsworth, WI
2:34 Richard Muellerleile, President, Star Gas Products, Inc., Poughkeepsie, NY
2:35 "Management", Eden Tool and Die, Eden, NY
2:36 Jesse Didio, Manager, Human Resources, Bartell Machinery Systems, L.L.C., Rome, NY
2:37 Jane Mulvihill, President, DI Highway Sign and Structure Corp., New York, NY
2:38 Vincent Perello, Personnel/Purchasing Manager, Diamond Saw Works, Inc., Chaffee, NY
2:40 Mark Forster, Vice President, Badger Iron Works, Menomonie, WI
2:41 David Bernstein, Manager, Human Resources, Unit Drop Forge Co., Inc., West Allis, WI
2:43 Paul Engel, President, American Boiler Tank & Welding Co., Inc., Albany, NY
2:44 Darcy Fields, State of Wisconsin, Eau Claire, WI
2:45 Margaret O'Brien, Safety Coordinator, Stride Tool, Ellicotville, NY
2:46 E.W. Tucker, President, F.W. Tucker & Son, Inc., Oswego, NY
2:47 Pat McGowan, Vice President-Operations, Brunsell Lumber & Millwork, Madison, WI
2:48 Jay Czerniak, President, Niagara Punch & Die Corporation, Buffalo, NY
2:49 Clifford Ross, President, Easter Castings Corp., Cambridge, NY
2:50 Rick Wells, President, Mohawk Resources, Amsterdam, NY
2:51 Donna Hale, Safety Director, U.S. Highway Products, Canastota, NY
2:52 Bob Kellog, Vice President, Warren Tire Service Center, Queensbury, NY
2:53 R.W. Whitman, President, ESSCO Incorporated, Green Bay, WI
2:54 James Porter, Vice President, Solvay Paperboard, Syracuse, NY
2:55 Gail Lipka, Plant Manager, Greenbelt Industries, Buffalo, NY
2:56 Jeff Trembly, Vice President, Oshkosh Coil Spring, Inc., Oshkosh, WI
2:57 Wayne Trembly, President, Oshkosh Coil Spring, Inc., Oshkosh, WI
2:58 Douglas Hooper, ES&H Manager, Luminescent Systems, East Aurora, NY
2:59 Brian Riemer, Plant Manager, NY
2:60 Ted Dankert, President, The Kansas Contractors Association, Inc., Topeka, KS
2:61 John Tarrant, President, Tarrant Manufacturing Co., Inc., Saratoga, NY
2:62 W. Romer, Personnel Director, Clear View Bag Co., Inc., Albany, NY
2:63 Ray Seeley, Operations Manager, Trussworks, Inc., Hayward, WI
2:64 David Clark, Plant Manager, Avon Automotive, Lockport, NY
2:65 Judith Scheitheir, Office Manager, Stainless Steel Brakes Corp., Clarence, NY
2:67 Donna Haley, Safety Director, Santaro, East Syracuse, NY
2:68 Tech Steel Service, Farmingdale, NY
2:69 Bill Petrillose, Building Manager, Center Ithaca-TSD Associates, Ithaca, NY
2:70 Clarence Cammers, Safety Manager, The Colman Group, Inc., Elhorn, WI
2:71 Scott Kantar, Plant Engineer, Jada Precision Plastics Co., Inc., Rochester, Ny
2.72 Donna Haley, Sel Ventures, LLC., East Syracuse, NY
2:73 Nora Eberl, Controller, Eberl Iron Works, Inc., Buffalo, NY
2:74 Robert Eck, President, Eck Plastic Arts, Inc., Binghamton. NY
2:75 Jack Ireton-Hewitt, General Manager, Champion Home Builders Co., Sangerfield, NY
2:76 James Haney, President, Wisconsin Manufacturers & Commerce, Madison, WI
2:77 Worth Joyner, Chief-Bureau Consultative Services, NC–DOL, Raleigh, NC
2:78 William Torrence, President, Torrance Casting, Inc., La Crosse, WI
2:79 Michael Camardello, Ph.D., President, Sharon's Distributors, Inc., Schenectady, NY
2:80 Erick Austin, Safety Manager, Felix Shoeller, Pulaski, NY
2:81 Susan Martin, Safety Director, De Kalb Forge Company, De Kalb, IL
2:82 Raymond Charbonneau, Plant Manager, Majic Corrugated, Inc., Batavia, NY
2:83 Richard Couchenour, Jamestown Advanced Products, Inc., Jamestown, NY
2:84 Daniel Hill, President, Metweld, Altamont, NY
2:85 Judy Betz, ITO Safety Team Member, ITO Industries, Inc., Bristol, WI
2:86 Robert Simmons, Assistant Director-Missouri On-Site Consultation Division of Labor Standards, Missouri—DOL, Jefferson City, MO
2:87 Jim Harrison, Medical Director, North Woods Community Health Center, Minong, WI
2:88 Fred Zeitz, DDS., Family Dentistry and Orthodontics, Middleton, WI
2:89 Louis Lento, Director-New Jersey Department of Labor, On-Site Consultation Program, NJ–DOL–OSHA, Trenton, NJ
2:90 Matthew Kucerak, Operations Manager, Sharon's Distributors, Inc., Schenectady, NY
2:91 Barbara Davis, President, Cowee, Berlin, NY
2:92 Karl Arps, Director-Bureau of Manufacturing and Technology Development, Wisconsin Dept. of Commerce, Madison, WI
2:93 Todd Samolinski, Vice President-Manufacturing, Fallon, Antigo, WI
2:94 Doug Wilcox, General Manager, McGregor, Binghamton, NY
2:95 Frances Miller, Health & Safety Administrator, Getinge/Castle Inc., Rochester, NY
2:96 Michael Mulcahy, GEHL, West Bend, WI
2:97 Neil Manasse, President, Harris Pallet Co., Inc., Albany, NY
2:98 John Kwiatkowski, Vice President-Operations, Owl Homes/Hawk Homes, Allegany, NY
2.99 Brian Flannagan, President, Primary Plastics, Inc., Endwell, NY
2:100 Bruce Richards, Wagner Millwork, Inc, Owego, NY
2:101 John Donaldson, President, Donaldson's Volkswagen-Audi-Subaru, Sayville, NY
2:102 Larry Lindesmith, M.D., Gunderson Lutheran Medical Center, La Crosse, WI
2:103 Gary Blasiman, Environmental & Safety Engineer, Colfor Manufacturing, Inc., Malvern, OH

2:104 Scott Kuhlmey, Safety Coordinator, Shur-Line, Lancaster, NY
2:106 Bill Welch, Safety Director, BRB Contractors, Inc., Topeka, KS
2:107 William MacGuane, Safety & Security Supervisor, Quesbecor Printing, Buffalo Inc., Depew, NY
2:108 Robert Green, Safety Director, K. J. Transportation, Farmington, NY
2:109 Frank Perry, President, American Society of Safety Engineers, Des Plaines, IL
2:110 Deborah Kruesi, Chief Operating Officer, ComposiTools, Inc., Albany, NY
2:111 Kevin Burke, Vice President-Government Relations, Food Distributors International, Falls Church, VA
2:112 Thomas Herrman, DEEP Administrator, Niagara Frontier Automobile Dealers Association, Williamsville, NY
2:113 George Frazer, Safety and Health Engineering Technician, Jensen Fittings Corporation, North, NY
2:114 Ralph Krall, Manager of Safety and Human Resources, Clifford-Jacobs Forging Company, Champaign, IL
2:115 J.D. Teclaw, Human Resource Director, Mapleton Wood Products, Thorp, WI
2:116 T.G. Getz, President, Moline Forge, Moline, IL
2:117 Brian Grossman, Assistant Environmental & Safety Manager, Portland Forge, Portland, IN
2:118 David Johnson, President, Corfu Machine Co., Inc., Corfu, NY
2:119 Kenneth Reichard, Commissioner of Labor and Industry, Maryland-DLLR, Baltimore, MD
2:120 Thomas O'Connor, Director of Technical Services, National Grain and Feed Association, Washington, D.C.
2:121 Marsha Greenfield, Public Policy Attorney, American Association of Homes and Services, Washington, D.C.
2:122 Joe Leean, Secretary, Wisconsin Department of Health and Family Services, Madison, WI
2:123 Thomas Sullivan, Regulatory Policy Council, National Federation of Independent Business, Washington, D.C.
2:124 Connie Varcasia, NY–DOL, Albany, NY
2:125 Beth Van Emburgh, Associate Manager, Regulatory Affairs, American Association of Airport Executives, Alexandria, VA
2:126 Karen Gilbert, Office Manager, Trevor Industries, Inc., Eden, NY
2:127 Stephan Foster, Safety Assistant Administrator, Department of Employement, Cheyenne, WY
2:128 Raymond Wilson, Safety Director, n/a, Rome, NY
2:129 Nancy Stumpf, CEO, Dream Wing, Hartland, WI
2:130 Michael Kelly, Facilities Manager, Deridder, Rochester, NY
2:131 Terry Haden, Facilitator, Salina Safety Network, Salina, KS
2:132 Rudolph Leutzinger, Project Manager, Kansas City Department of Human Resources, Topeka, KS
2:133 James Frederick, Health Safety and Environment Department, United Steelworkers of America, Pittsburgh, PA
2:134 Lisa Blunt-Bradley, Secretary of Labor, Delaware—DOL, Wilmington, DE
2:136 Douglas Gaffney, Controller, Niagara Transformer Corp., Buffalo, NY
2:137 Joe Norsworthy, Secretary of Labor, Commonwealth of Kentucky Labor Cabinet, Frankfort, KY
2:138 Edward Owsinski, Director of Engineering, Paz Systems, Farmingdale, NY
2:139 Jeffrey Woitha, Vice President, Carbo Forge & Machining, Fremont, OH
2:140 Michael Marsala, Environmental Engineer, Guardian Industries Corp., Geneva, NY
2:141 Zwack, Inc., Stephentown, NY
2:142 Hawaii—OSH, Honolulu, HI
2:143 Jim Redmona, Director Safety & Health Services, GBC Safety and Construction Services, Inc., Albany, NY
2:144 Fred Kohloff, Director, Environmental Health & Safety, American Foundrymen's Society, Inc., Washington, D.C.
2:145 Peg Seminario, Director—Department of Occupational Safety & Health, A.F.L.C.I.O., Washington, D.C.
2:147 William Weems, Presidnet, OSHCON, Tuscaloosa, AL
2:148 Holly Evans, Vice President-Governmental Relations, IPC-Association Connecting Electronics Industries, Northbrook, IL
2:149 John Engler, Program Director, PA–OSHA, Indiana, PA
2:150 Douglas Capell, Personnel Director, Trek, Medina, NY
2:151 Holly Bodnar, Secretary, Pine Bush Equipment Co., Inc., Pine Bush, NY
2:152 Owen Wagner, Director—Occupational Safety & Health Division, Ohio Bureau of Employment Services, Columbus, OH
2:153 David Stangel, Plant Manager, Copeland Coating Co., Inc., Nassau, NY
2:154 Douglas Greenhaus, Director—Environment, Health & Safety, National Automobile Dealers Association, McLean, VA
2:155 Allen Williams, Assistant Director for Occupational Safety and Health, Safe-State-University of Alabama, AL
2:156 Brian Gitt, President, Paceline Construction Corporation, Warwick, NY
2:157 Jennifer Burgess, Director—Safety Section, West Virginia, DOL, Charleston, WV
2:158 Ned Murphy, Safety Manager, Hammond & Irving, Auburn, NY
2:159 Jacqueline Nowell, Director, Occupational Safety and Health Office—Field Services Department, United Food and Commercial Workers International Union, Washington, D.C.
2:160 Patty Kelley, Operations Coordinator, Crescent Manufacturing, Eden, NY
2:161 John Patchett, Executive Vice President, State Medical Society of Wisconsin, Madison, WI
2:162 Eric Frumin, Director—Occupational Safety and Health, UNITE, New York, NY
2:163 Steve and Marie Daigle, Owners, Daigle Brothers Inc., Tomahawk, WI
2:165 Brenda Reneau, Commissioner of Labor, Oklahoma—DOL, Oklahoma City, OK
2:166 Richard Rohm, Plant Manager, Pilotron Company of America LLC, Niagara Falls, NY
2:168 Gary Buckner, Business Manager, Spooner Creek Designs, Shell Lake, WI
2:169 Ross Pepe, President, Construction Industry Council, Tarrytown, NY
2:170 W.D. Price, Vice President-Finance and Administration, Canton Drop Forge, Canton, OH
2:171 Dan Marx, Senior Associate-Government Affairs, Graphic Arts Technical Foundation, Sewickley, PA
2:171 David Munschhauer, President, S.E.H. Metal Fabricators, Inc., Buffalo, NY
2:172 Jacqueline Schommer, Vice President-Human Resources, Durex Products, Inc., Luck, WI
2:173 Paul Evans, Plant Manager, Robbins Sports Surfaces, White Lake, WI
2:174 Marvin Smith, General Manager, Frazier Industrial Company, Waterloo, NY
2:175 Gary Bouffard, Executive Vice President and Chief Operating Officer, Ideal Forging Corporation, Southington, CT
2:176 James Koczak, Vice President Human Resources, Ideal Forging Corporation, Southington, CT
2:177 Sal Lento, Plant Manager, Ideal Forging Corporation, Southington, CT
2:178 Francis Gualtieri, Safety/Environmental Coordinator, Ideal Forging Corporation, Southington, CT
2:179 Pam McDonough, Director, Illinois Department of Commerce and Community, Springfield, IL
2:180 Muskego, Windlake Animal Hospital, Muskego, WI
2:181 Gary Sloop, CSP, State Consultant, Las Vegas, NV
2:182 Cory Tomczyk, Industrial Recyclers of Wisconsin, Mosinee, WI
2:183 Margaret Buchmann, Treasurer, Brown County Cabinets, Green Bay, WI
2:184 Norb Plassmeyer, Vice President and Director of Environmental Affairs, Associated Industries of Missouri, Jefferson City, MO
2:185 Robert Ehlert, Safety Director, Bassett Mechanical, Kaukauna, WI
2:187 Peter Pipp, Safety Director, Cudahy Tanning Co., Inc., Cudahy, WI
2:188 James Collins, MNOSHA Management Team Director, Minnesota Department of Labor and Industry, St. Paul, MN
2:189 Michael Sprinker, Director ICWUC Health and Safety Department, International Chemical Workers Union Council, Akron, OH
2:190 Charles Maresca, Director—Legal and Regulatory Affairs, Associated Builders and Contractors, Rosslyn, VA
2:191 Martin David, NY
2:192 John Sweeney, Member of Congress, House of Representatives, Washington, D.C.
2:193 Andy Mayts, NUCA President, National Utility Contractors Association, Arlington, VA
2:195 Timothy Joyce, Commissioner, Indiana-DOL, Indianapolis, IN
2:196 Travis Beason, Corporate Safety/Environmental Director, Zero Mountain, Inc., Ft. Smith, AR
2:197 Wendy Gramm, Director—Regulatory Studies Program, Mercatus Center, Arlington, VA
2:198 Robert Mitvalsky, Director of Plant Operations, Chamberlain, Scranton, PA

2:199 Douglas DiGesare, Coordinator of Satellite Services, Heritage Centers, Buffalo, NY
2:201 Franklin Mirer, Director—Health and Safety Department, International Union-UAW, Detroit, MI
2:202 Manuel Rosas, Trainer, NC–DOL, Pineville, NC
2:203 National Roofing Contractors Association, Washington, D.C.
2:204 Michael Duggan, President, Vulcan Steam Forging Co., Buffalo, NY
2:205 Major Owens, Member of Congress, House of Representatives, Washington, D.C.

[FR Doc. 00–27103 Filed 10–25–00; 8:45 am]
BILLING CODE 4510–26–P

Federal Register

Thursday,
October 26, 2000

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52
Federal Acquisition Regulation; Application of Labor Clauses; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 1999–612]

RIN 9000–AI95

Federal Acquisition Regulation; Application of Labor Clauses

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) by amending the clause, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items), to include the Prohibition of Segregated Facilities clause and to clarify the application of labor clauses below the simplified acquisition threshold. The Councils are also proposing to amend the Equal Opportunity clause to incorporate the exception for work performed outside the United States.

DATES: Interested parties should submit comments in writing on or before December 26, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1999 –612@gsa.gov.

Please submit comments only and cite FAR case 1999–612 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAR case 1999–612.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule amends the clause at 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items), to include the clause at 52.222–21, Prohibition of Segregated Facilities. This amendment clarifies the existing requirements of 41 CFR 60–1.8, promulgated by the Department of Labor under E.O. 112146. The Prohibition of Segregated Facilities clause must be included in contracts whenever the Equal Opportunity clause (FAR 52.222–26) is included.

Upon review of the requirements for inclusion of the Equal Opportunity clause, the Councils moved the Equal Opportunity clause from the list at paragraph (b), to the list at paragraph (a), because the clause must be included in almost all contracts, even those under $10,000, in accordance with the requirements at FAR 22.802(a)(1) and 22.807(b). Even though included, the clause is inapplicable unless the aggregate value of contracts and subcontracts awarded to the contractor exceeds $10,000 in a year.

The Councils have made other revisions to paragraphs (b)(1)(i), (b)(1)(iv), and (b)(1)(vi) of the clause at FAR 52.213–4, and paragraph (a) of the clause at FAR 52.222–26, relating to geographic applicability of labor clauses, to comply with the current regulations at FAR 22.603, 22.807(b)(2), 22.1001, 22.1003–2, and 22.1408(a)(1).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule only clarifies the existing requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–612), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: October 20, 2000.

Al Matera,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR part 52 be amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.213–4 by—

a. Revising the date of the clause;

b. Redesignating paragraphs (a)(1)(ii) and (a)(1)(iii) as (a)(1)(iv) and (a)(1)(v), respectively;

c. Adding new paragraphs (a)(1)(ii) and (a)(1)(iii); and

d. Revising paragraphs (b)(1)(i), (b)(1)(iv), and (b)(1)(vi) and removing and reserving paragraph (b)(1)(ii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Date)

(a) * * *

(1) * * *

(ii) 52.222–21, Prohibition of Segregated Facilities (FEB 1999) (E.O. 11246).

(iii) 52.222–26, Equal Opportunity (DATE) (E.O. 11246).

* * * * *

(b) * * *

(1) * * *

(i) 52.222–20, Walsh-Healey Public Contracts Act (DEC 1996) (41 U.S.C. 35–45) (Applies to supply contracts over $10,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

(ii) [Reserved]

* * * * *

(iv) 52.222–36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793) (Applies to contracts over $10,000, unless the work is to be performed outside the United States by employees recruited outside the United States (for purposes of this clause, "United States" includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island).

* * * * *

(vi) 52.222–41, Service Contract Act of 1965, As Amended (May 1989) (41 U.S.C. 351, *et seq.*) (Applies to service contracts over $2,500 that are subject to the Service Contract Act and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands,

American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer continental shelf lands).

* * * * *

3. Amend section 52.222–26 by—

a. Revising the date of the clause;

b. Removing the paragraph designation and the introductory text of paragraph (b);

c. Redesignating paragraph (a) as paragraph (b) and revising the introductory text; and

d. Adding a new paragraph (a) to read as follows:

52.222–26 Equal Opportunity.

* * * * *

Equal Opportunity (Date)

(a) *Definition. United States,* as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with paragraphs (b)(1) through (11) of this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

* * * * *

[FR Doc. 00–27500 Filed 10–25–00; 8:45 am]

BILLING CODE 6820–EP–P

Federal Register

Thursday,
October 26, 2000

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 90, et al.
Changes in Fees for Science and Technology (S&T) Laboratory Service; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 90, 91, 92, 93, 94, and 98

[Docket Number [S&T–99–008]

RIN 0581–AB91

Changes in Fees for Science and Technology (S&T) Laboratory Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the standard hourly fee rate for each laboratory analysis from $36.26 to $45.00. The premium laboratory rate for appeals, holiday and overtime service will be increased from $54.39 to $67.50 per analysis hour. These 24.1 percent increases in hourly rates reflect the additional revenue S&T is required to collect in order to recover laboratory program expenses. AMS is also changing the fees for laboratory testing services which are offered for agricultural food commodities to reflect actual equipment and labor expenses for performing each test. These revised regulations include additional tests for commodity products for incorporation into existing schedules and set an updated hourly rate of $45.00 for unlisted tests. In addition, AMS is removing laboratory tests that have been found to be obsolete or duplicate tests performed by other Agricultural Marketing Service programs. The rule also contains name, position title, and address changes as a result of Agency restructuring efforts that lead to the formation of the AMS Science and Technology program.

EFFECTIVE DATE: October 27, 2000.

FOR FURTHER INFORMATION CONTACT: James V. Falk, Docket Manager, USDA, AMS, Science and Technology, P.O. Box 96456, Room 3521-South, Washington, DC 20090–6456; telephone (202) 690–4089; facsimile (202) 720–4631, or e-mail: James.Falk@usda.gov.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

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

B. Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

C. Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are 811 current users of the Science and Technology's (S&T) laboratory testing services. Such users of services include food processors, handlers, growers, government agencies, and exporters. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). Laboratory tests for commodities are provided to all businesses on a voluntary basis and user fees are set at an hourly rate. Any decision to discontinue the use of the laboratory services and obtain new contracts with other governmental agencies or private laboratories would not hinder the food processors or industry members from marketing their products. User fee costs to entities would be proportional to their use of testing services, so that costs are shared equitably by all users.

The last fee increases for the Laboratory Program testing services became effective on May 4, 1998 (63 FR 16370–16375). Since that time, there has been both a decline in revenue and an increase in costs. This reflects a shift in usage patterns on the part of applicants for testing services and change to government programs. For example, several federal commodity purchasing programs are now relying heavily on vendor certification rather than government laboratory testing, and a larger percentage of peanut aflatoxin analyses are performed by other, non-S&T laboratories. In addition, testing of tobacco samples is down; and poultry testing is decreasing due to changing importer country requirements. Also, some companies are doing their own company and in-house analyses rather than using government laboratory testing services. Further, there has been a noticeable decrease in requested dairy product testing with the scaling back of the dairy price support program.

In fiscal year 1999, there was an approximate 40 percent decrease in dairy product samples (39,559 total) from the 162 dairy manufacturers that the Science and Technology program services which accounted for an $807,299 decline in laboratory revenue for that year. Several streamlining actions to be completed in FY 2000 will result in cost savings. They include staff and space reductions or closing of laboratories. However, overall, costs are increasing despite these efforts. Employee salary and benefits, which account for approximately 68 percent of the FY 2000 operating budget, have increased 4.8 to 5.59 percent, depending on the locality, since January 2000.

Rents, utilities, communications, and other overhead costs increased 5.1 percent during FY 1999. These overhead costs are projected to increase by the same percentage for FY 2000.

In fiscal year 1999, the S&T Laboratory Program obligatory costs exceeded revenues by $1,423,869 with costs at $6,419,006 and revenue at $4,995,137. For fiscal year 2000 the S&T program expects to report a $1,562,534 deficit at the current fees because there are expected to be lower numbers of samples for analysis with all commodities at our laboratories. The S&T program projected costs and revenues for FY 2000 are $6,513,730 and $4,951,196 respectively without a fee increase.

The AMS estimates that this rule will yield $1,584,383 overall in additional laboratory testing program revenues during FY 2000. The laboratory hourly fee rate will increase by approximately 24.1 percent from $36.26, as last revised effective May 4, 1998 (63 FR 16370–16375). The new standard laboratory service fee rate will be $45.00 per hour. This fee will also apply to tests which are not listed in the fee schedules (Tables 1 through 8). The premium laboratory rate for appeals, holiday and overtime service will be $67.50 per analysis hour or one and one half times the fees listed in Tables 1 through 8. This represents a 24.1 percent increase. The fees in Tables 1 through 8 will also be amended. Most of these will increase.

Without an increase, anticipated revenue will not adequately cover increasing program costs. FY 2000 revenues for laboratory testing are expected to be $4,951,196 at the current hourly fee rates, obligatory costs are projected at $6,513,730, and trust fund balances would be $797,211, which is below the necessary reserve level ($2,552,243). With the fee increase, FY 2000 revenues are projected to be $5,017,147 with obligatory costs of $6,400,480 and trust balance at $874,667. Users of S&T testing services are under no obligation to use them. However, it is necessary for AMS to recover the cost of these services. The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*)

provides for the collection of reimbursable fees from users of the program services to cover, as nearly as practicable, the costs of the services rendered. However, because our anticipated collections through this rule are less than originally projected, we will need to propose new schedules that will include certain test fee increases for fiscal year 2002.

Other miscellaneous and unsubstantial changes are made in this rule that will not adversely affect users of the program services. Related fee increases represent the minimal fee increases necessary to cover the costs of operating the services provided under the S&T program. Accordingly, the Admininistrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This rule does not contain any new information collection or record keeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E. Background and Analysis of Proposal

On August 9, 1993, AMS published a rule in the **Federal Register** (58 FR 42408–42448) to combine all AMS regulations concerning laboratory services. The goal was to consolidate and to transfer existing laboratory testing programs operating independently under the various commodity programs (Cotton, Poultry, Fruit and Vegetable, Tobacco, Dairy, and Livestock and Seed) to its Science and Technology (S&T) program, formerly the Science Division and the Science and Technology Division (S&TD).

All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997. The prior rules included fees charged for testing and related services under the diversified S&T programs and set an hourly analytical testing rate. The current standard hourly rate of $36.26 and the premium hourly rate of $54.39 have been in effect since May 4, 1998.

The S&T laboratory testing programs are mainly voluntary, user fee services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The Act authorizes the Secretary of Agriculture to provide Federal analytical testing services that facilitate marketing and allow products to obtain grade designations or meet marketing standards. In addition, the laboratory tests establish quality standards for agricultural commodities. The Act also requires that reasonable fees be collected from the users of the services to cover as nearly as possible the costs of maintaining the programs.

In addition to raising hourly fees, there is a need to amend all general schedules and listing of fees for official laboratory test services in tables 1 through 8 in part 91, subpart I due to rapid changes in analytical methodologies and customer service needs. Under the present Code of Federal Regulations (CFR) the fee schedules list 200 items of laboratory services in part 91. Many additions and deletions of laboratory tests have occurred since the last rule published on April 2, 1998 (63 FR 16370–16375).

A proposed rule was published in the **Federal Register** (65 FR 34302–34320) on May 26, 2000, providing for a twenty day comment period ending June 15. 2000. No comments were received. However, during the interim period to the publication of this final rule, S&T staff have taken the initiative to make some additional and necessary changes to enhance customer service needs and to better control rising laboratory service costs. On June 30, 2000, the S&T Midwestern Laboratory in Chicago, Illinois was permanently closed and the analytical testing services this laboratory offered was immediately transferred to other S&T laboratories, especially the Eastern laboratories in Gastonia, North Carolina. The S&T Eastern laboratories have a fully operational Laboratory Management System (LIMS) that will enhance the delivery of analytical test services to customers. The S&T laboratories in Gastonia are also strategically located in a centralized region of the United States of America to reduce sample delivery costs. In table 5 of the fee schedules new categories of microbiological testing were added to accommodate the occasions when the customer prepares on-site their own milk smears on glass slides and submits such field preparations to the laboratory for staining and direct microscopic clump counts. In table 3 of the fee schedules the current fee of $217.56 for GLC amitraz residue analysis was reduced to $112.50, rather than raised to $270.00, as stated in the proposed rule. The amitraz residue single test fee reduction corresponds to recent efficiencies performing this analysis in large sample batches.

The following tables 1 through 8 serve as reference aids and compare the current fees and charges with the new fees and charges for the laboratory testing of food and fiber products as found at 7 CFR 91.37:

TABLE 1.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 1.—Single Test Laboratory Fees for Proximate Analyses:		
Ammonia, Ion Selective Electrode	$81.59	$101.25
Ash, Total	36.26	45.00
Ash, Acid Insoluble	54.39	Removed
Chloride, Salt Titration (Dairy)	$18.13	$22.50
Fat, Acid Hyrolysis (Cheese)	36.26	45.00
Fat Acid Hydrolysis (Mojonnier)	36.26	45.00
Fat (Dairy Prod. Except Cheese)	18.13	22.50
Fat (Dry Basis)	None	67.50
Fat, Ether Extraction (Soxhlet)	36.26	45.00
Fat (Kohman)	None	45.00
Fat, Microwave-Solvent Extract	36.26	45.00
Fiber, Crude	72.52	Removed
Mousture, Distillation	36.26	45.00
Moisture, Oven	18.13	22.50
Moisture (Kohman)	None	11.25
Protein, Combustion	72.52	90.00
Protein, Kjeldahl	72.52	90.00
Salt, Back Titration	27.20	33.75

TABLE 1.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Salt, Potentiometric	$18.13	$22.50
Salt (Rapid)	None	33.75
Standard hourly rate	36.26	45.00
Premium hourly rate	54.39	67.50

TABLE 2.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 2—Single Test laboratory Fees for Lipid Related Analysis:		
Acid Degree Value (Dairy)	$36.26	$45.00
Acidity, Titratable	9.07	22.50
Carotene, Spectrophotometric	90.65	Removed
Catalase Test	18.13	Removed
Cholesterol	90.65	Removed
Color (Honey)	18.13	Removed
Color, NEPA (Eggs)	36.26	Removed
Consistency, Bostwick (Cooked)	18.13	Removed
Consistency, Bostwick (Uncooked)	18.13	Removed
Density (Specific Gravity)	9.07	11.25
Dispersibility (I Dry Whole Milk)	None	67.50
Dispersibility (Moates-Dabbah)	18.13	22.50
Fat Stability, AOM	36.26	45.00
Fatty Acid Profile, AOAC–GC	145.04	180.00
Flash Point Test only	72.52	90.00
Free Fatty Acids	18.13	22.50
Meltability (Process Cheese)	18.13	22.50
Peanut Oil Analyses (Oil, Moisture, Free Fatty Acid, Ammonia, and Foreign Matter)	None	45.00
Any 1 of the oilseed oil analyses	None	22.50
Peroxidase Test	18.13	Removed
Peroxide Value	27.20	33.75
Smoke Point Test only	72.52	90.00
Smoke Point and Flash Point	126.91	157.50
Solids, Total (Oven Drying)	18.13	22.50
Soluble Solids, Refractometer	18.13	22.50

TABLE 3.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 3—Single Test Laboratory Fees for Food Additive (Direct and Indirect):		
Aflatoxin, (Dairy, Eggs)	$126.91	Redistributed
Alar or Daminozide Residue	217.56	Removed
Amitraz Residue, GLC	217.56	$112.50
Alcohol (Qualitative)	72.52	Removed
Alkalinity of Ash	54.39	Removed
Antibiotic, Qualitative (Dairy)	18.13	22.50
Antibiotic Quantitative	389.86	393.75
Ascorbates (Qualitative—Meats)	18.13	22.50
Ascorbic Acid, Titration	36.26	45.00
Ascorbic Acid, Spectrophotometric	36.26	45.00
Benzene, Residual	72.52	Removed.
Brix, Direct Percent Sucrose	18.13	22.50
Brix, Dilution	18.13	22.50
Butylated Hydroxyanisole (BHA)	54.39	67.50
Butylated Hydroxytoluene (BHT)	54.39	67.50
Caffeine, Micro Bailey-Andrew	54.39	67.50
Caffeine, Spectrophotometric	36.26	78.75
Calcium	54.49	Removed
Citric Acid, GLC or HPLC	54.39	67.50
Chlorinated Hydrocarbons:		
Pesticides and Industrial Chemicals—		
Initial Screen	145.04	180.00
Second Column Confirmation of Analyte	36.26	45.00
Confirmation on Mass Spectrometer	72.52	90.00
Dextrin (Qualitative)	18.13	22.50
Dextrin (Quantitative)	108.78	135.00
Filth, Heavy (Dairy)	90.65	112.50
Filth, Heavy (Eggs)	145.04	180.00
Filth, Light (Eggs)	90.65	112.50

TABLE 3.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Filth, Light & Heavy (Eggs)	$217.56	$270.00
Fines	None	22.50
Flavor (Dairy)	9.07	11.25
Flavor (Products except Dairy)	27.20	33.75
Fumigants:		
Initial Screen—		
Dibromochloropropane (DBCP)	36.26	45.00
Ethylene Dibromide	36.26	45.00
Methyl Bromide	36.26	45.00
Confirmation on Mass Spectrometer—		
Each individual fumigant residue	72.52	90.00
Glucose (Qualitative)	27.20	33.75
Glucose (Quantitative)	63.46	78.75
Glycerol (Quantitative)	108.78	135.00
Gums	108.78	135.00
Heavy Metal Screen	317.28	326.25
High Sucrose Content or Avasucrol (Holland Eggs)	145.04	Removed
Hydrogen Ion Activity, pH	18.13	Removed
Mercury, Cold Vapor AA	90.65	135.00
Metals (Other Than Heavy, Each Metal)	72.52	Removed
Monosodium Dihydrogen	145.04	180.00
Phosphate Monosodium Glutamate	145.04	180.00
Niacin	72.52	90.00
Nitrites (Qualitative)	18.13	Removed
Nitrites (Quantitative)	108.78	Removed
Ochratoxin A	None	67.50
Odor	9.07	11.25
Organic Acids (in Eggs)	None	180.00
Oxygen	18.13	22.50
Palatability and Odor:		
First Sample	27.20	22.50
Each Additional Sample	18.13	Removed
Penicillin	None	67.50
Phosphatase, Residual	36.26	Removed
Phosphorus	72.52	Removed
Propylene Glycol, Codistillation: (Qualitative)	72.52	Removed
Pyrethrin Residue (Dairy)	145.04	180.00
Scorched Particles	9.07	22.50
Sodium, Potentiometric	36.26	45.00
Sodium Benzoate, HPLC	54.39	67.50
Sodium Lauryl Sulfate (SLS)	290.08	Removed
Sodium Silicoaluminate (Zeolex)	72.52	90.00
Solubility Index	18.13	11.25
Starch (in Dry Milk)	None	22.50
Starch, Direct Acid Hydrolysis	108.78	90.00
Sugar, Polarimetric Methods	36.26	33.75
Sugar Profile, HPLC—		
One type sugar from profile	108.78	135.00
Each additional type sugar	18.13	22.50
Sugars, Non-Reducing	108.78	135.00
Sugars, Total as Invert	72.52	Removed
Sulfites (Qualitative)	27.20	Removed
Sulfur Dioxide, Direct Titration	36.26	45.00
Sulfur Dioxide, Monier-Williams	54.39	Removed
Toluene, Residual	72.52	90.00
Triethyl Citrate, GC (Quantitative)	36.27	Removed
Vitamin A, Carr-Price (Dairy)	45.33	112.50
Vitamin A, HPLC	90.65	90.00
Vitamin B_1 (Thiamin)	72.52	90.00
Vitamin B_2 (Riboflavin)	72.52	90.00
Vitamin D, HPLC (Vitamins D_2 & D_3/Dairy)	308.21	382.50
Whey Protein Nitrogen	27.20	33.75
Whey Protein Nitrogen, Kjeldahl	None	112.50
Xanthydrol Test for Urea	54.39	67.50
This is an optional test to the extraneous material isolation test.		

TABLE 4.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 4—Single Test Laboratory Fees for Other Chemical and Physical Component Analyses:		
Available Carbon Dioxide (Baking Powders)	$145.04	Removed

TABLE 4.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Capsaicin (Hot Sauce)	$72.52	Removed
Cheese (Fines)	None	$11.25
Color, Apparent-Visual	9.07	11.25
Complete Kohman Analysis-Dairy	36.26	45.00
Extractable Color in Spices	18.13	Removed
Grape Juice Absorbancy Ratio	18.13	Removed
Hot Water Insolubles	None	67.50
Hydroxymethylfurfural (Honey)	36.26	Removed
Jelly Strength (Bloom)	90.65	Removed
Linolenic Acid.	72.52	90.00
Methyl Anthranilate	36.26	Removed
Net Weight (Per Can)	9.07	11.25
Non-Volatile Methylene Chloride Extract	90.65	112.50
Overrun for Whipped Topping	27.20	33.75
Particle Size (Ether Wash)	18.13	22.50
pH	None	11.25
ph—Quinhydrone (Cheese)	18.13	22.50
Potassium Iodine (Table Salt)	54.39	67.50
Protein Reducing Substances	None	45.00
Quinic Acid (Cranberry Juice)	63.46	78.75
Serum Drainage for Whipped Topping	18.13	22.50
Sieve or Particle Size	18.13	22.50
Rate of Wetting (Nondairy Creamer)	18.13	22.50
Reducing Sugars	72.52	90.00
Water Activity	27.20	22.50
Water Insoluble Inorganic Residues (WIIR)	72.52	90.00
Yellow Onion Test	27.20	Removed

TABLE 5.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 5—Single Test Laboratory Fees for Microbiological Analyses:		
Aerobic (Standard) Plate Count	$18.13	$22.50
Anaerobic Bacterial Plate Count	27.20	33.75
Bacillus cereus	72.52	90.00
Bacterial Direct Microscopic Count	36.26	45.00
Campylobacter jejuni	145.04	Removed
Coliform Plate Count (Dairy Products)	18.13	22.50
Coliform Plate Count, Violet Red Bile Agar (Presumptive Coliform Plate Count)	27.20	33.75
Coliforms, Most Probable Number (MPN):		
Step 1	27.20	33.75
Step 2	27.20	22.50
Direct Microscopic Clump Count (Field Submitted Smears, Less Than or Equal To 75 Million Count)	None	11.25
Direct Microscopic Clump Count (Field Submitted Smears, Greater Than 75 Million Count)	None	45.00
Direct Microscopic Clump Count (Lab Prepared Smears)	None	45.00
E. coli, Presumptive MPN (Additional)	54.39	$45.00
E. coli (MUG)	None	33.75
Enterococci Count	108.78	135.00
Howard Mold Count	None	56.25
Lactobacillus Count	45.33	56.25
Lactic Acid Tolerant Microbes	None	22.50
Listeria monocytogenes Confirmation Analysis:		
Step 1	54.39	67.50
Step 2	54.39	56.25
Step 3 (Confirmation)	90.65	112.50
Parasite Identification	145.05	180.00
Psychrotrophic Bacterial Plate Count	27.20	45.00
Salmonella (USDA Culture Method):		
Step 1 (Dairy Products)	36.26	Removed
Step 1	54.39	78.75
Step 2	27.20	33.75
Step 3 (Confirmation)	54.39	56.25
Serological Typing (Optional)	90.65	Removed
Salmonella Enumeration (Complete Test)	108.78	135.00
Salmonella (Rapid Methods):		
Step 1	72.52	78.75
Step 2	27.20	33.75
Step 3 (Confirmation)	54.39	56.25
Salmonella typhi (Meat Products)	36.26	45.00
Staphylococcus aureus, Direct Plating	None	67.50

TABLE 5.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Staphylococcus aureus, MPN: With Coagulase Positive Confirmation	$63.46	$78.75
Thermoduric Bacterial Plate Count	27.20	33.75
Yeast and Mold Count	18.13	22.50
Yeast and Mold Differential Confirmation	None	22.50
Yeast and Mold Differential Plate Count	27.20	33.75
Yeast or Mold Confirmation	None	22.50

TABLE 6.—[AMENDED] LABORATORY FEES FOR AFLATOXIN ANALYSES

Aflatoxin test by commodity	Current fee per single analysis	Current fee per pair analyses	Revised fee per single analysis	Revised fee per pair analysis [1]
Peanut Butter (TLC–CB, HPLC, Affinity Column)	$36.26	NA	$45.00	[2] NA
Corn (TLC–CB, HPLC, Affinity Column)	36.26	NA	45.00	NA
Roasted Peanuts (TLC–BF)	36.26	NA	45.00	NA
Brazil Nuts (TLC–BF)	72.52	NA	90.00	NA
Pistachio Nuts (TLC–BF, HPLC)	72.52	NA	90.00	NA
Shelled Peanuts (TLC, Affinity Column)	17.00	$34.00	45.00	$38.00
Shelled Peanuts (HPLC)	31.00	62.00	45.00	70.00
Tree Nuts (TLC)	36.26	NA	45.00	NA
Oilseed Meals (TLC, HPLC, Affinity Column)	36.26	NA	45.00	NA
Edible Seeds (TLC)	36.26	NA	45.00	NA
Dried Fruit (TLC)	36.26	NA	45.00	NA
Small Grains (TLC)	36.26	NA	45.00	NA
In-Shell Peanuts (TLC, Affinity Column)	17.00	34.00	45.00	38.00
In-Shell Peanuts (HPLC)	None	None	45.00	70.00
Silage; Other Grains (TLC)	36.26	NA	45.00	NA
Submitted Samples (TLC, HPLC, Affinity Column)	36.26	NA	45.00	NA
Aflatoxin (Dairy, Eggs)	126.91	None	157.50	NA

[1] Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD for single or pair of analyses is $19.00 or $38.00, respectively using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction or immunoaffinity column assay with fluorometric quantitation. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the Best Foods method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per single or pair of analyses using High Pressure Liquid Chromatography (HPLC) is $35.00 and $70.00, respectively. Other aflatoxin analyses for fruits and vegetables are listed at Science and Technology's current hourly rate of $45.00.

[2] NA denotes not applicable.

TABLE 7.—MICELLANEOUS CHARGES SUPPLEMENTAL TO SCIENCE AND TECHNOLOGY'S LABORATORY TEST FEES

Laboratory service description	Current list fee	Revised list fee
Sample Grinding by Vertical Cutter Mixer (VCM)	$18.13	$22.50.
Sample Grinding Canned Boned Poultry	$36.26	$11.25 per can.
Sample Grinding by Dickens Hammer Mill	None	$11.25.
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):		
Per pouch or raw sample	$9.07	$11.25.
Per tray pack	$18.13	$22.50.
Compositing Multiple Subsamples for an Individual Test Sample—Unit per Subsample.	$9.07	Varies—Preparation fee based on $45.00 per hour.

TABLE 8.—ADDITIONAL CHARGES APPLICABLE TO SAMPLE RECEIPT AND ANALYSIS REPORT

Service description	Current list charge	Revised list charge
Established Courier Expense at Albany, Georgia S&T Laboratory	$2.15	Removed.
Courier Expense at Other AMS Laboratories: Mileage Charge Set at $0.325 Per Mile Round Trip from Laboratory to Delivery Site.	Varies	Varies (based on total mileage).
Facsimile Charge (Per Analysis Report)	$3.20 minimum up to first 3 pages, then $1.10 per page.	$3.20 minimum up to first 3 pages then $1.50 per page.
Additional Analysis Report or Extra Certificate (½ hour charge minimum)	$18.13 per report or certificate reissued.	$22.50 per report or certificate issued.

Currently, there are 200 tests or laboratory services in the current fee schedules in tables 1 through 8 of part 91 of the regulations. This rule removes 41 laboratory tests or services which have been found to be obsolete or which

duplicate tests performed by other Agricultural Marketing Service programs. The rule adds 29 new analytical tests that are frequently requested by many of Science and Technology's 811 customers. The customers for our laboratory services will benefit with the increased convenience of choosing newer and perhaps less costly analytical methods for determining a particular analyte in a commodity product. Once this rule becomes effective, there will be 188 laboratory test and service descriptions with scheduled fees in tables 1 through 8 of part 91 of the regulations. The majority of the fees have increased by 24.1 percent. However, 11 fees have increased by a greater percentage and 9 fees have been lowered. Although the fees set for the various tests are based on the hourly fee, it is necessary to consider other factors when setting fees for some of the tests. For example, the large increase in fees for four laboratory tests is due to the additional need to recover the large increase in costs for specialized chemicals or microbiological media and other materials for performing these tests. Therefore, the titratable acidity and the scorched particles analyses will increase from $9.07 to $22.50, and the Carr-Price vitamin A (Dairy) test will increase from $45.33 to $112.50. For the same reason, S&T is increasing the cost of performing step 1 for the *Salmonella* (USDA culture method) to $78.75 from $54.39 and the fee for performing the psychrotrophic bacterial plate count will change from $27.20 to $45.00.

The general 24.1 percent increase in user fees for laboratory services are intended to cover all of the costs associated with S&T Laboratory Program. In fee tables 1 through 8 in 7 CFR part 91, S&T is increasing the fees for the quantitative antibiotic, the heavy metal screen, the step 1 *Listeria monocytogenes* analysis, the step 3 or confirmation *Salmonella* analysis (both the USDA culture and rapid methods), and the step 1 *Salmonella* analysis (rapid method) by 1, 2.8, 3.4, 3.4 (both), and 8.6 percent respectively. In addition, certain laboratory fees are lowered by 17.3 percent. These are the palatability and odor test, the direct acid hydrolysis starch test, the water activity test, the step 2 MPN coliforms test, and the MPN presumptive E. coli test. S&T is also lowering the fees for the GLC amitraz residue analysis, the solubility index, the sugar polarimetric methods, and the HPLC vitamin A analysis by 48.3, 37.9, 6.9, and 0.7 percent respectively.

In its analysis of projected costs for fiscal years 1999 and 2000, AMS has identified increases in the costs of providing laboratory testing services despite declining revenues. In fiscal year 1999, the S&T Laboratory Program obligatory costs exceeded revenues by $1,423,869 with costs at $6,419,006 and revenue at $4,995,137. For FY 2000 the S&T program expects to report a $1,562,534 deficit at the current fees because there are expected to be lower numbers of samples for analysis with all commodities at our laboratories. The S&T program projected costs and revenues for FY 2000 are $6,513,730 and $4,951,196 respectively without a fee increase. The corresponding decrease in revenue with lower numbers of samples are attributable mainly to a shift in usage patterns on the part of applicants for testing services and change to government programs. For example, several federal commodity purchasing programs are now relying heavily on vendor certification rather than government laboratory testing; a larger percentage of peanut aflatoxin analyses are performed by Peanut Administrative (PAC) approved private laboratories; testing of tobacco samples is down; and poultry testing is decreasing due to changing importer country requirements. In addition, some companies are doing their own company analyses rather than using government laboratory testing services. Further, there has been a noticeable decrease in requested dairy product testing with the scaling back of the dairy price support program. Several streamlining actions to be completed in FY 2000 will result in cost savings. They include staff and space reductions or closing of laboratories. For example, S&T has voluntarily closed aflatoxin testing facilities at Dothan, Alabama and Ashburn, Georgia that are currently listed in 7 CFR part 91. The S&T Midwestern Laboratory in Chicago, Illinois was also closed and the unique analytical testing services this laboratory offered was immediately transferred to other S&T laboratories. This was a streamlining measure to reduce Federal facility maintenance costs and to restructure the S&T Laboratory Program to improve efficiency of operations and responsiveness of services. Overall, costs are increasing despite these efforts. Employee salary and benefits, which account for approximately 68 percent of FY 2000 operating budget, have increased 4.8 to 5.59 percent, depending on the locality, since January 2000. For FY 1999, these increases were 3.54 to 4.02 percent, depending on locality. Rents, utilities, communications, and other overhead costs increased 5.1 percent during FY 1999. These overhead costs are projected to increase by the same percentage for FY 2000.

The AMS estimates that this rule would yield $1,584,383 overall in additional laboratory testing program revenues during FY 2000. The laboratory hourly fee rate will increase by approximately 24.1 percent from $36.26, as last revised effective May 4, 1998 (63 FR 16370). The new standard laboratory service fee rate will be $45.00 per hour. This fee will also apply to tests which are not listed in the fee schedules (Tables 1 through 8). The premium laboratory rate for appeals, holiday and overtime service will be $67.50 per analysis hour or one and one half times the fees listed in Tables 1 through 8. This represents an approximate increase of 24.1 percent. The fees in Tables 1 through 8 will also be amended. Most of these will increase. Without an increase, anticipated revenue will not adequately cover increasing program costs. FY 2000 revenues for laboratory testing are expected to be $4,951,196 at the current hourly fee rates, obligatory costs are projected at $6,513,730, and trust fund balances would be $797,211, which is below the necessary reserve level ($2,552,243) called for by Agency policy and prudent financial management. With the fee increase, FY 2000 revenues are projected to be $5,017,147 with obligatory costs of $6,400,480 and trust balance at $874,667. Users of S&T testing services are under no obligation to use them. However, it is necessary for AMS to recover the cost of these services. The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) provides for the collection of reimbursable fees from users of the program services to cover, as nearly as practicable, the costs of the services rendered.

All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997. Hence, this rule also has name, position title, address corrections, and other changes which are administrative in nature as a result of these Agency restructuring efforts. The term "Science and Technology Division" will be changed to "Science and Technology." The term "Director" will be replaced by the term "Deputy Administrator." Section 91.5 will list new addresses for the Science and Technology regional laboratories, headquarters offices, the Information Technology (IT) office, the Statistical Branch office, and the offices for residue programs. The name "Residue Branch" in section 91.5 will be more appropriately named "Pesticide

Data Branch." In section 91.9, the Technical Service Branch Chief will replace the defunct Laboratory Operations Coordination Staff Chief position. In sections 91.23, 93.13, and 94.4, the analytical method references will have updated addresses. Section 91.37 will list a world wide web (www) site (*http://ams.usda.gov/science*) in which to obtain updated schedules of the laboratory testing fees. In section 91.37, a new fee ($11.25) in table 7 for sample grinding by Dickens hammer mill will be listed. In table 8 of section 91.37, a revised facsimile charge ($1.50) for an additional page will be listed. In section 91.40, the established courier expense at the S&T peanut aflatoxin laboratory in Albany, Georgia will be removed.

A 20-day comment period was included in the proposed rule. No comments were received. Hence, the proposed rule is adopted as a final rule with the changes discussed.

Pursuant to 5 U.S.C. 553 it is found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The current fee schedule does not adequately cover AMS' costs of services rendered under the S&T laboratory testing program; and (2) the increased fees are needed as soon as possible to offset the added costs to the program.

List of Subjects

7 CFR Part 90

Agricultural commodities, Laboratories, Reporting and record keeping requirements.

7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and record keeping requirements.

7 CFR Part 92

Agricultural commodities, Laboratories, Pesticides and pests, Tobacco.

7 CFR Part 93

Agricultural commodities, Citrus fruits, Fruit juices, Fruits, Laboratories, Nuts, Vegetables.

7 CFR Part 94

Agricultural commodities, Eggs, Laboratories, Poultry.

7 CFR Part 98

Agricultural commodities, Laboratories, Meat and meat products.

For the reasons stated in the preamble, the Agricultural Marketing Service will amend Title 7, chapter I, subchapter E, of the Code of Federal Regulations as follows:

PART 90—[AMENDED]

1. The authority citation part 90 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 90.1 [Amended]

2. In § 90.1, the words "Science and Technology Division" are revised to read "Science and Technology", the words "Science and Technology Division's" are revised to read "Science and Technology's", and the word "S&TD" is revised to read "S&T" everywhere they appear.

3. In § 90.2, the definitions of "Director", "Division", and "Laboratories" are removed and new definitions of "Deputy Administrator", "Laboratories", and "Program" are added in alphabetical order to read as follows:

§ 90.2 General terms defined.

* * * * *

Deputy Administrator. The Deputy Administrator of the Science and Technology program of the Agricultural Marketing Service agency, or any officer or employee of this agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act.

Laboratories. Science and Technology laboratories performing the official analyses described in this subchapter.

Program. The Science and Technology (S&T) program of the Agricultural Marketing Service (AMS) which performs official analytical testing services, issues licenses for cottonseed chemists, and conducts quality assurance reviews and grants accreditation or certification for commodity testing programs of laboratories.

* * * * *

§ 90.3 [Amended]

4. In § 90.3, the words "Science and Technology Division" are revised to read "Science and Technology".

§ 90.101 [Amended]

5. In § 90.101, the words "Science and Technology Division" are revised to read "Science and Technology".

§ 90.102 [Amended]

6. In § 90.102, the word "Director" is revised to read "Deputy Administrator".

PART 91—SERVICES AND GENERAL INFORMATION

7. The authority citation part 91 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 91.1 [Amended]

8. In § 91.1, the words "Science and Technology Division" are revised to read "Science and Technology".

9. In § 91.2, the definition for "Applicant" is revised and the definition for "Agency", is added to read as follows:

§ 91.2 Definitions.

* * * * *

Agency. The Agricultural Marketing Service agency of the United States Department of Agriculture.

* * * * *

Applicant. Any person or organization requesting services provided by the Science and Technology (S&T) programs.

* * * * *

§ 91.3 [Amended]

10. In § 91.3, the words "Division Director" are revised to read "Deputy Administrator".

11. Section 91.4 is revised to read as follows:

§ 91.4 Kinds of services.

(a) Analytical tests. Analytical laboratory testing services under the regulations in this subchapter consist of microbiological, chemical, and certain other analyses, requested by the applicant and performed on tobacco, seed, dairy, egg, fruit and vegetable, meat and poultry products, and related processed products. Analyses are performed to determine if products meet Federal specifications or specifications defined in purchase contracts and cooperative agreements. Laboratory analyses are also performed on egg products as part of the mandatory Egg Products Inspection Program under the management of USDA's Food Safety and Inspection Service (FSIS) as detailed in 9 CFR 590.580.

(b) Examination and licensure. The manager of the Science and Technology's Cottonseed Chemist Licensing Program administers examinations and licenses chemists to certify the official grade of cottonseed.

(c) Quality assurance reviews. The Science and Technology representative performs on-site laboratory quality assurance reviews (both required and voluntary) to ensure that appropriate technical methods, equipment maintenance, and quality control procedures are being observed.

(d) Consultation. Technical advice, statistical science consultation, and quality assurance program assistance are provided by the representatives for the

Science and Technology programs for domestic and foreign laboratories.

12. Section 91.5 is revised to read as follows:

§ 91.5 Where services are offered.

(a) Services are offered to applicants at the Science and Technology laboratories and facilities in the following list:

(1) *Science and Technology regional laboratories.* A variety of tests and laboratory analyses are available in two regional multi-disciplinary Science and Technology (S&T) laboratories, and are located as follows:

(i) USDA, AMS, S&T
Eastern Laboratory (Microbiology), 2311–B Aberdeen Boulevard, Gastonia, NC 28054–0614.

(ii) USDA, AMS, S&T
Eastern Laboratory (Chemistry), 645 Cox Road, Gastonia, NC 28054–0614.

(2) *Science and Technology (S&T) aflatoxin laboratories.* The specialty laboratories performing aflatoxin testing on peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, oilseed products and other commodities are located as follows:

(i) USDA, AMS, S&T
1211 Schley Avenue, Albany, GA 31707.

(ii) USDA, AMS, S&T
c/o Golden Peanut Company, Mail: P.O. Box 279, 301 West Pearl Street, Aulander, NC 27805.

(iii) USDA, AMS, S&T
610 North Main Street, Blakely, GA 31723.

(iv) USDA, AMS, S&T
107 South Fourth Street, Madill, OK 73446.

(v) USDA, AMS, S&T
c/o Cargill Peanut Products, Mail: P.O. Box 272, 715 North Main Street, Dawson, GA 31742–0272.

(vi) USDA, AMS, S&T
Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434.

(3) *Citrus laboratory.* The Science and Technology's citrus laboratory specializes in testing citrus juices and other citrus products and is located as follows: USDA, AMS, S&T Eastern Laboratory (Citrus), 98 Third Street, S.W., Winter Haven, FL 33880.

(4) *Program laboratories.* Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide such laboratory services.

(5) *Other alternative laboratories.* Laboratory analyses may be conducted at alternative Science and Technology laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel are available.

(6) *The Plant Variety Protection (PVP) Office.* The PVP office and plant examination facility of the Science and Technology programs issues certificates of protection to developers of novel varieties of plants which reproduce sexually. The PVP office is located as follows: USDA, AMS, Science & Technology, Plant Variety Protection Office, National Agricultural Library Building, Room 500, 10301 Baltimore Boulevard, Beltsville, MD 20705–2351.

(7) *Science and Technology headquarters offices.* The examination, licensure, quality assurance reviews, laboratory accreditation/certification and consultation services are provided by headquarters staff located in Washington, DC. The main headquarters office is located as follow: USDA, AMS, Science and Technology, Office of the Deputy Administrator, Room 3507 South Agriculture Bldg., Mail Stop 0222, 1400 Independence Ave., S.W., Washington, DC 20250.

(8) *The Information Technology (IT) Office.* The IT office of the Science and Technology programs is headed by AMS's Chief Information Officer (CIO) and provides information technology services and management systems to the Agency and other agencies within the USDA. The main IT office is located as follow: USDA, AMS, Science and Technology, Office of the Chief Information Officer, 1752 South Agriculture Bldg., 1400 Independence Ave., SW., Washington, DC 20250.

(9) *Statistical Branch office.* The Statistical Branch office of Science and Technology (S&T) provides statistical services to the Agency and other agencies within the USDA. In addition, the Statistical Branch office devices sample plans and performs consulting services for research studies in joint efforts with or in a leading role with other program areas of AMS or of the USDA. The main Statistical Branch office is located as follow: USDA, AMS, S&T Statistical Branch, 0611 South Agriculture Bldg., 1400 Independence Ave., S.W., Washington, DC 20250.

(10) *Offices for Pesticide Residue Programs.* Services afforded by the Federal Pesticide Record Keeping Program for restricted-use pesticides by certified applicators and services afforded by the Pesticide Data Program (PDP) are provided by offices located as follows:

(i) USDA, AMS, Science and Technology
Pesticide Data Branch, 8700 Centreville Road, Suite 200, Manassas, VA 20110–8411

(ii) USDA, AMS, Science and Technology
Pesticide Records Branch, 8700 Centreville Road, Suite 202, Manassas, VA 20110–8411

(iii) USDA, AMS, Science and Technology
Office of Deputy Administrator, Room 3507 South Agriculture Bldg., 1400 Independence Ave., SW., Washington, DC 20250.

(b) The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science and Technology laboratories, offices, and facilities by addressing an inquiry to the Administrative Officer, Science and Technology, Agricultural Marketing Service, United States Department of Agriculture (USDA), P.O. Box 96456, Room 0727 South Building, Mail Stop 0271, Washington, D.C. 20090–6456.

§ 91.6 [Amended]

13. In § 91.6 paragraph (a), the words "Science and Technology Division" are revised to read "Science and Technology".

14. Section 91.9 is revised to read as follows:

§ 91.9 How to make an application.

(a) *Voluntary.* An application for analysis and testing may be made by contacting the director or supervisor of the Science and Technology laboratory where the service is provided, or by contacting the Technical Services Branch Chief at Science and Technology Headquarters, Washington, DC. A list of the Science and Technology laboratories is included in § 91.5.

(b) *Mandatory.* In the case of mandatory analyses, such as those required to be performed on eggs and egg products, application for services may be submitted to the office or USDA agency which administers the program, or by contacting an inspector or grader who is involved with the program.

15. Section 91.23 is revised to read as follows:

§ 91.23 Analytical methods.

Most analyses are performed according to approved procedures

described in manuals of standardized methodology. These standard methods are the specific methods used. Alternatively, equivalent methods prescribed in cooperative agreements are used. The manuals of standard methods most often used by the Science and Technology laboratories are listed as follows:

(a) Approved Methods of the American Association of Cereal Chemists (AACC), American Association of Cereal Chemists/Eagan Press, 3340 Pilot Knob Road, St. Paul, Minnesota 55121–2097.

(b) ASTA's Analytical Methods Manual, American Spice Trade Association (ASTA), 560 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, New Jersey 07632.

(c) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(d) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159–0945.

(e) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(g) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, P.O. Box 3489, 2211 West Bradley Avenue, Champaign, Illinois 61821–1827.

(h) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(i) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), 1701 Pennsylvania Avenue, NW., Washington, DC 20006.

(j) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(k) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(l) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW–846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

(m) U.S. Army Natick Research, Development and Engineering Center's Military Specifications, approved analytical test methods noted therein, Code NPP–9, Department of Defense Single Stock Point (DODSSP) for Military Specifications, Standards, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111–5094.

(n) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW., Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

16. Section 91.24 is revised to read as follows:

§ 91.24 Reports of test results.

(a) Results of analyses are provided, in writing, by facsimile, by e-mail or other electronic means to the applicant.

(b) Applicants may call the appropriate Science and Technology laboratory for interim or final results prior to issuance of the formal report. The advance results may be telegraphed, e-mailed, telephoned, or sent by facsimile to the applicant. Any additional expense for advance information shall be borne by the requesting party.

(c) A letter report in lieu of an official certificate of analysis may be issued by a laboratory representative when such action appears to be more suitable than a certificate: *Provided*, that, issuance of such report is approved by the Deputy Administrator.

§ 91.25 [Amended]

17. In § 91.25, the words "Division Director" are revised to read "Deputy Administrator".

§ 91.26 [Amended]

18. In § 91.26, the words "Division Director" are revised to read "Deputy Administrator", and the word "Division" is revised to read "Science and Technology program" everywhere they appear.

§ 91.31 [Amended]

19. In § 91.31, the words "Division Director" are revised to read "Deputy Administrator".

20. Section 91.32 is revised to read as follows:

§ 91.32 Where to file for an appeal of a laboratory service and information required.

(a) Application for an appeal of a laboratory service may be filed with the supervisor in the office or the director of the laboratory facility that issued the certificate or laboratory report on which the appeal analysis covering the commodity product is requested.

(b) The application for an appeal of a laboratory service shall state the location of the lot of the commodity product and the reasons for the appeal; and date and serial number of the certificate covering the laboratory service of the commodity product on which the appeal is requested. In addition, such application shall be accompanied by the original and all available copies of the certificate or laboratory report.

(c) Application for an appeal of a laboratory service may be made orally (in person or by telephone), in writing, by e-mail, by facsimile, or by telegraph. If made orally, written confirmation shall be made promptly.

21. In part 91, subpart I §§ 91.37 through 91.40 are revised to read as follows:

§ 91.37 Standard hourly fee rate for laboratory testing, analysis, and other services.

(a) The standard hourly fee rate in this section for the individual laboratory analyses cover the costs of Science and Technology laboratory services, including issuance of certificates and personnel and overhead costs other than the commodity inspection fees referred to in 7 CFR §§ 52.42 through 52.46, 52.48 through 52.51, 55.510 through 55.530, 55.560 through 55.570, 58.38 through 58.43, 58.45 through 58.46, 70.71 through 70.72, and 70.75 through 70.78. The hourly fee rates in this part 91 apply to all processed commodity products, except flue-cured and burley tobacco, and exclude aflatoxin analyses, citrus juices and certain citrus products. The printed updated schedules of the laboratory testing fees for processed fruits and vegetables (7 CFR part 93),

poultry and egg products (7 CFR part 94), and meat and meat products (7 CFR part 98) will be available for distribution by the individual Laboratory Directors of Science and Technology laboratories listed in § 91.5. The updated schedules of the laboratory testing fees are also available for electronic access on the world wide web (www) site at: http://ams.usda.gov/science. The fees for chemical analysis of cottonseed associated with grading and novel variety seed certification under the Plant Variety Protection Act are specified in 7 CFR parts 96 and 97, respectively. Except as otherwise provided in this section, charges will be made for laboratory analysis at the standard hourly rate of $45.00 for the time required to perform the service. A minimum charge of one-quarter hour at $11.25 will be made for service pursuant to each request or certificate issued.

(b) When a laboratory test service is provided for AMS by a commercial or State government laboratory, the applicant will be assessed a fee which covers the costs to the Science and Technology program for the service provided.

(c) When Science and Technology staff provides applied and developmental research and training activities for microbiological, physical and chemical analyses on agricultural commodities the applicant will be charged a fee on a reimbursable cost basis.

General Schedules of Fees for Official Laboratory Test Services Performed at the AMS Science and Technology Laboratories for Processed Commodity Products

TABLE 1.—SINGLE TEST LABORATORY FEES FOR PROXIMATE ANALYSES

Type of analysis	List fee
Ammonia, Ion Selective Electrode	$101.25
Ash, Total	45.00
Chloride, Salt Titration (Dairy)	22.50
Fat, Acid Hydrolysis (Cheese)	45.00
Fat, Acid Hydrolysis (Mojonnier)	45.00
Fat (Dairy Products except Cheese)	22.50
Fat (Dry Basis)	67.50
Fat, Ether Extraction (Soxhlet)	45.00
Fat (Kohman Analysis)	45.00
Fat, Microwave—Solvent Extraction	45.00
Moisture, Distillation	45.00
Moisture, Oven	22.50
Moisture (Kohman Analysis)	11.25
Protein, Combustion	90.00
Protein, Kjeldahl	90.00
Salt, Back Titration	33.75
Salt, Potentiometric	22.50
Salt (Rapid)	33.75

TABLE 2.—SINGLE TEST LABORATORY FEES FOR LIPID RELATED ANALYSES

Type of analysis	List fee
Acid Degree Value (Dairy)	$45.00
Acidity, Titratable	22.50
Density (Specific Gravity)	11.25
Dispersibility (Instant Dry Whole Milk)	67.50
Dispersibility (Moates-Dabbah Method)	22.50
Fat Stability,[1] AOM	45.00
Fatty Acid Profile (AOAC–GC method)	180.00
Flash Point Test only	90.00
Free Fatty Acids	22.50
Meltability (Process Cheese)	22.50
Peanut Oil Analyses (Oil, Moisture, Free Fatty Acids, Ammonia, and Foreign Matter)	45.00
Any One of the Oilseed Oil Analyses	22.50
Peroxide Value	33.75
Smoke Point Test only	90.00
Smoke Point and Flash Point	157.50
Solids, Total (Oven Drying)	22.50
Soluble Solids, Refractometer	22.50

[1] Peroxide value analysis is required as a prerequisite to the fat stability test at the additional fee.

TABLE 3.—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)

Type of analysis	List fee
Amitraz Residue, GLC	$112.50
Antibiotic, Qualitative (Dairy)	22.50
Antibiotic, Quantitative [1]N	393.75
Ascorbates (Qualitative—Meats)	22.50
Ascorbic Acid, Titration	45.00
Ascorbic Acid, Spectrophotometric	45.00
Brix, Direct Percent Sucrose	22.50
Brix, Dilution	22.50
Butylated Hydroxyanisole (BHA)	67.50
Butylated Hydroxytoluene (BHT)	67.50
Caffeine, Micro Bailey-Andrew	67.50
Caffeine, Spectrophotometric	78.75
Citric Acid, GLC or HPLC	67.50
Chlorinated Hydrocarbons:	
Pesticides and Industrial Chemicals—	
Initial Screen	180.00
Second Column Confirmation of Analyte	45.00
Confirmation on Mass Spectrometer (Per Residue)	$90.00
Dextrin (Qualitative)	22.50
Dextrin (Quantitative)	135.00
Filth, Heavy (Dairy)	112.50
Filth, Heavy (Eggs)	180.00
Filth, Light (Eggs)	112.50
Filth, Light & Heavy (Eggs Extraneous)	270.00
Fines	22.50
Flavor (Dairy)	11.25
Flavor (Products except Dairy)	33.75
Fumigants:	
Initial Screen—	
Dibromochloropropane (DBCP)	45.00
Ethylene Dibromide	45.00
Methyl Bromide	45.00

TABLE 3.—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)—Continued

Type of analysis	List fee
Confirmation on Mass Spectrometer—	
Each individual fumigant residue	$90.00
Glucose (Qualitative)	33.75
Glucose (Quantitative)	78.75
Glycerol (Quantitative)	135.00
Gums	135.00
Heavy Metal Screen [2]	326.25
Mercury, Cold Vapor AA	135.00
Monosodium Dihydrogen Phosphate	180.00
Monosodium Glutamate	180.00
Niacin	90.00
Ochratoxin A	67.50
Odor	11.25
Organic Acids (in Eggs)	180.00
Oxygen	22.50
Palatability and Odor: Each Sample	22.50
Penicillin	67.50
Pyrethrin Residue (Dairy)	180.00
Scorched Particles	22.50
Sodium, Potentiometric	45.00
Sodium Benzoate, HPLC	67.50
Sodium Lauryl Sulfate (SLS)	360.00
Sodium Silicoaluminate (Zeolex)	90.00
Solubility Index	11.25
Starch, Direct Acid Hydrolysis	90.00
Starch (in Dry Milk)	22.50
Sugar, Polarimetric Methods	33.75
Sugar Profile. HPLC— [3]	
One type sugar from HPLC profile	135.00
Each additional type sugar	22.50
Sugars, Non-Reducing	135.00
Sulfur Dioxide, Direct Titration	45.00
Toluene, Residual	90.00
Vitamin A, Carr-Price (Dairy)	112.50
Vitamin A, HPLC	90.00
Vitamin B_1 (Thiamin)	90.00
Vitamin B_2 (Riboflavin)	90.00
Vitamin D, HPLC (Vitamins D_2 and D_3), Dairy	382.50
Whey Protein Nitrogen	33.75
Whey Protein Nitrogen, Kjeldahl	112.50
Xanthydrol Test For Urea	67.50
This is an optional test to the extraneous materials isolation test.	

[1] Antibiotic testing includes tests for chlorotetracycline, oxytetracycline, and tetracycline.

[2] Heavy metal screen Includes tests for cadmium, lead, and mercury.

[3] This profile includes the following components: Dextrose, Fructose, Lactose, Maltose and Sucrose.

TABLE 4.—SINGLE TEST LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES

Type of analysis	List fee
Cheese(Fines)	$11.25
Color, Apparent-Visual	11.25
Complete Kohman Analysis (Dairy)	45.00

TABLE 4.—SINGLE TEST LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES—Continued

Type of analysis	List fee
Hot Water Insolubles	$67.50
Linolenic Acid	90.00
Net Weight (Per Can)	11.25
Non-Volatile Methylene Chloride Extract	112.50
Overrun for Whipped Topping	33.75
Particle Size (Ether Wash)	22.50
pH	11.25
pH—Quinhydrone (Cheese)	22.50
Potassium Iodide (Table Salt)	67.50
Protein Reducing Substances	45.00
Quinic Acid (Cranberry Juice)	78.75
Serum Drainage for Whipped Topping	22.50
Sieve or Particle Size	22.50
Rate of Wetting (Nondairy Creamer)	22.50
Reducing Sugars	90.00
Water Activity	22.50
Water Insoluble Inorganic Residues (WIIR)	90.00

TABLE 5.—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES

Type of analysis	List fee
Aerobic (Standard) Plate Count	$22.50
Anaerobic Bacterial Plate Count	33.75
Bacillus cereus	90.00
Bacterial Direct Microscopic Count	45.00
Coliform Plate Count (Dairy Products)	22.50
Coliform Plate Count, Violet Red Bile Agar (Presumptive Coliform Plate Count)	33.75
Coliforms, Most Probable Number (MPN) [1]:	
Step 1	33.75
Step 2	22.50
Direct Microscopic Clump Count—(Field Submitted Smears, Less Than or Equal To 75 Million Count)	11.25
Direct Microscopic Clump Count—(Field Submitted Smears, Greater Than 75 Million Count)	45.00
Direct Microscopic Clump Count—(Lab Prepared Smears)	45.00

TABLE 5.—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES—Continued

Type of analysis	List fee
E. coli, Presumptive MPN (Additional) [2]	$45.00
E. coli (MUG [3])	33.75
Enterococci Count	135.00
Howard Mold Count [4]	56.25
Lactobacillus Count [5]	56.25
Lactic Acid Tolerant Microbes	22.50
Listeria monocytogenes Confirmation Analysis [6]:	
Step 1	67.50
Step 2	56.25
Step 3 (Confirmation)	112.50
Parasite Identification	180.00
Psychrotrophic Bacterial Plate Count	45.00
Salmonella (USDA Culture Method) [7]:	
Step 1	78.75
Step 2	33.75
Step 3 (Confirmation)	56.25
Salmonella Enumeration (Complete Test)	135.00
Salmonella (Rapid Methods) [8]:	
Step 1	78.75
Step 2	33.75
Step 3 (Confirmation)	56.25
Salmonella typhi (Meat Products) [9]	45.00
Staphylococcus aureus, Direct Plating	67.50
Staphylococcus aureus, MPN: With Coagulase Positive Confirmation	78.75
Thermoduric Bacterial Plate Count	33.75
Yeast and Mold Count	22.50
Yeast and Mold Differential Confirmation	22.50
Yeast and Mold Differential Plate Count	33.75
Yeast or Mold Confirmation	22.50

[1] Coliform MPN analysis may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.

[2] Step 1 of the coliform MPN analysis is a prerequisite for the performance of the presumptive *E. coli* test. Prior enrichment in lauryl sulfate tryptose broth is required for optical recovery of *E.coli* from inoculated and incubated EC broth (*Escherichia coli* broth). The *E. coli* test is performed through growth on eosin methylene blue agar. The fee stated for *E. coli* analysis is a supplementary charge to step 1 of coliform test.

[3] In the presence of the substrate 4-methylumbelliferone-β-D-glucuronide (MUG), the enzyme β-glucuronidase, which is found in the majority of *E. coli* strains, produces a fluorogenic end product which is visible under ultraviolet (UV) light.

[4] Howard Mold Count involves counting mold filaments in commodity products.

[5] Determination of bacterial plate count of different species of *Lactobacillus*.

[6] *Listeria monocytogenes* test using the USDA method may be in three steps as follows: Step 1—isolation by University of Vermont modified (UVM) broth and Fraser's broth enrichments and selective plating with Modified Oxford (MOX) agar; Presumptive Step 2—typical colonies inoculated from Horse Blood into brain heart infusion (BHI) broth and check for characteristic motility; Confirmatory Step 3—culture from BHI broth with typical motility is inoculated into the seven biochemical medias, BHI agar for oxidase and catalase tests, Motility test medium, and Christie-Atkins-Munch-Peterson (CAMP) test.

Listeria monocytogenes test using the FDA method may be in three steps as follows: Step 1—isolation by trypticase soy broth with 0.6% yeast extract (TSB–YE) broth enrichment and selective plating with Modified McBrides agar and Lithium chloride Phenylethanol Moxalactam (LPM) agar; Presumptive Step 2—typical colonies inoculated to trypticase soy agar with yeast extract (TSA–YE) with sheep blood plates to check for hemolysis followed by inoculations to BHI broth and TSA–YE plates to check for characteristic motility, gram stain and catalase test; Confirmatory Step 3—culture from BHI broth with typical motility for wet mount is inoculated into the required 10 biochemical medias, Sulfide-Indole-Motility (SIM) medium, and the CAMP test. Serology is checked using growth from TSA–YE plates.

Both methods for *Listeria* determination have the equivalent time needed for each step.

[7] *Salmonella* test may be in three steps as follows: Step 1— growth through differential agars; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antiserums. The serological typing of *Salmonella* is requested on occasion.

[8] *Salmonella* test may be in three steps as follows: Step 1—growth in enrichment broths and ELISA test or DNA hybridization system assay; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antiserums.

[9] *Salmonella typhi* determination in mechanically deboned meat.

TABLE 6.—LABORATORY FEES FOR AFLATOXIN ANALYSES

Aflatoxin test by commodity	Single analysis	Pair analyses [1]
Peanut Butter (TLC–CB, HPLC, Affinity Column)	$45.00	[2] NA
Corn (TLC–CB, HPLC, Affinity Column)	45.00	NA
Roasted Peanuts (TLC–BF)	45.00	NA
Brazil Nuts (TLC–BF)	90.00	NA
Pistachio Nuts (TLC–BF, HPLC)	90.00	NA
Shelled Peanuts (TLC, Affinity Column)	45.00	$38.00
Shelled Peanuts (HPLC)	45.00	70.00
Tree Nuts (TLC)	45.00	NA

TABLE 6.—LABORATORY FEES FOR AFLATOXIN ANALYSES—Continued

Aflatoxin test by commodity	Single analysis	Pair analyses [1]
Oilseed Meals (TLC, HPLC, Affinity Column)	$45.00	NA
Edible Seeds (TLC)	45.00	NA
Dried Fruit (TLC)	45.00	NA
Small Grains (TLC)	45.00	NA
In-Shell Peanuts Affinity Column (TLC)	45.00	38.00
In-Shell Peanuts (HPLC)	45.00	70.00
Silage; Other Grains (TLC)	45.00	NA
Submitted Samples (TLC, HPLC, Affinity Column)	45.00	NA
Aflatoxin (Dairy, Eggs)	157.50	NA

[1] Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD for single or pair of analyses is $19.00 or $38.00, respectively using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction or immunoaffinity column assay with fluorometric quantitation. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the Best Foods method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per single or pair of analyses using High Pressure Liquid Chromatography (HPLC) is $35.00 and $70.00, respectively. Other aflatoxin for fruits and vegetables are listed at Science and Technology's current hourly rate of $45.00.

[2] NA denotes not applicable.

TABLE 7.—MISCELLANEOUS CHARGES SUPPLEMENTAL TO THE SCIENCE AND TECHNOLOGY'S LABORATORY ANALYSIS FEES

Laboratory service description	List fee
Sample Grinding by Vertical Cutter Mixer (VCM)	$22.50
Sample Grinding Canned Boned Poultry	$11.25 per can.
Sample Grinding by Dickens Hammer Mill	$11.25.
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):	
Per pouch or raw sample	$11.25.
Per tray pack	$22.50.
Composting Multiple Subsamples for an Individual Test Sample Unit per subsample	Varies—Preparation fee based on $45.00 per hour.

TABLE 8.—ADDITIONAL CHARGES APPLICABLE TO THE SAMPLE RECEIPT AND ANALYSIS REPORT

Service description	List charge
Courier Expense at Other AMS Laboratories: Mileage Charge Set at 32.5¢ Per Mile Round Trip from Laboratory to Delivery Site.	Varies (based on total mileage).
Facsimile Charge (Per Analysis Report)	$3.20 minimum up to first 3 pages, then $1.50 per page.
Additional Analysis Report or Extra Certificate (½ hour charge)	$22.50 per report or certificate reissued.

§ 91.38 Additional fees for appeal of analysis.

(a) The appellant will be charged an additional fee at a rate of 1.5 times the standard rate stated in § 91.37 (a) if, as a result of an authorized appeal analysis, it is determined that the original test results are correct. The appeal laboratory rate is $67.50 per analysis hour.

(b) The appeal fee will be waived if the appeal laboratory test discloses that an inadvertent error was made in the original analysis.

§ 91.39 Premium hourly fee rate for overtime and legal holiday service.

(a) Laboratory analyses initiated at the special request of the applicant to be rendered on Saturdays, Sundays, Federal holidays, and on an overtime basis will be charged at a rate of 1.5 times the standard rate stated in § 91.37 (a). The premium laboratory rate for holiday and overtime service will be $67.50 per analysis hour.

(b) Information on legal holidays or what constitutes overtime service at a particular S&T laboratory is available from the Laboratory Director or facility supervisor.

§ 91.40 Fees for courier service and facsimile of the analysis report.

(a) The Science and Technology laboratories have a courier charge per trip to retrieve the sample package. The courier service charge is determined from the established single standard mileage rate and from the total authorized distance based on the shortest round trip route from laboratory to sample retrieval site. Pursuant to the requirements of paragraph (a) (1) of § 5704 of Title 5, United States Code (U.S.C.), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS).

(b) The faxing of laboratory analysis reports or certificates is an optional service for each S&T facility offered at a fee specified in table 8 in § 91.37.

§ 91.41 [Amended]

22. In § 91.41, the words " Division Director" are revised to read "Deputy Administrator".

23. Section 91.42 is revised to read as follows:

§ 91.42 Billing.

(a) Each billing cycle will end on the 25th of the month. The applicant will be billed by the National Finance Center using the Billings and Collections System (BLCO) on the 1st day, following the end of the billing cycle in which voluntary laboratory services and other services were rendered at a particular Science and Technology laboratory.

(b) The total charge shall normally be stated directly on the analysis report or

on a standardized official certificate form for the laboratory analyses of a specific agricultural commodity and related commodity products.

(c) The actual bill for collection will be issued by the USDA, National Finance Center Billings and Collection Branch, (Mail: P.O. Box 60075), 13800 Old Gentilly Road, New Orleans, Louisiana 70160–0001.

24. In § 91.43, paragraphs (b) and (c) are revised to read as follows:

§ 91.43 Payment of fees and charges.

* * * * *

(b) Fees and charges for services under a cooperative agreement with a State or other AMS programs or other governmental agency will be paid in accordance with the terms of the cooperative agreement.

(c) As necessary, the Deputy Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by applicant.

25. In § 91.44, paragraph (e) is revised to read as follows:

§ 91.44 Charges on overdue accounts and issuance of delinquency notices.

* * * * *

(e) The Deputy Administrator of S&T program and personnel of the USDA, NFC Billings and Collections Branch (address as listed in § 91.42) will take such actions as may be necessary to collect any delinquent amounts due for accounts in claim status.

26. Section 91.45 is revised to read as follows:

§ 91.45 Charges for laboratory services on a contract basis.

(a) Irrespective of hourly fee rates and charges prescribed in § 91.37, or in other sections of this subchapter E, the Deputy Administrator may enter into contracts with applicants to perform continuous laboratory services or other types of laboratory services pursuant to the regulations in this part and other requirements, as prescribed by the Deputy Administrator in such contract. In addition, the charges for such laboratory services, provided in such contracts, shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory services, including an appropriate overhead charge to cover administrative overhead expenses as may be determined by the Administrator.

(b) Irrespective of hourly fee rates and charges prescribed in this subpart I, or in other parts of this subchapter E, the Deputy Administrator may enter into a written Memorandum of Understanding (MOU) or agreement with any administrative agency or governing party for the performance of laboratory services pursuant to said agreement or order on a basis that will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory service, including an appropriate overhead administrative overhead charge.

(c) The conditions and terms for renewal of such Memorandum of Understanding or agreement shall be specified in the contract.

PART 92—[AMENDED]

1. The authority citation part 92 continues to read as follows:

Authority: 7 U.S.C. 511m and 7 U.S.C. 511r.

§ 92.1 [Amended]

2. In § 92.1, the words "Science and Technology Division's" are revised to read "Science and Technology's".

§ 92.2 [Amended]

3. Section 92.2 is amended as follows:

a. Remove the definition of "Certificate of Analysis (Form CSSD–3)".

b. Revise the definitions for "2,4-D", "DDE", "Dicamba", "HCB", "Maximum pesticide residue level", "Pesticide certification", "Pesticide test sample"," Sample Identification Form (Form TB–89)", "2,4,5-T", "TDE", and "Tobacco".

c. Add two new definitions "AMS" and "Certificate of Analysis (Form TB–92)" in alphabetical order to read as follows:

§ 92.2 Definitions.

* * * * *

AMS. The abbreviations for the Agricultural Marketing Service (AMS) agency of the United States Department of Agriculture.

Certificate of Analysis (Form TB–92). A legal document on which the confirmed test results for official samples will be testified to be correct by a Science and Technology chemist in charge of testing.

2,4-D. The common abbreviation for the acid herbicide 2,4-Dichlorophenoxyacetic acid.

DDE. The common abbreviation for the chlorinated pesticide Dichlorodiphenyldichloroethylene. Degradation product of DDT by loss of one molecule of hydrochloric acid or referred to as a dehydrohalogenation process.

DDT. The common abbreviation for Dichloro diphenyl trichloroethane or the common name for the chlorinated insecticide or contact poison 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethane.

Dicamba. The common name for the acid herbicide 2-Methoxy-3,6-dichlorobenzoic acid.

HCB. The common abbreviation for the organochlorine pesticide Hexachlorobenzene.

Maximum pesticide residue level. The maximum concentration of residue allowable for a specific pesticide or combination of pesticides, as set forth in 7 CFR 29.427 by the AMS Deputy Administrator of the Tobacco Programs.

Pesticide certification. A document issued by the Tobacco Programs in a form approved by its AMS Deputy Administrator, containing a certification by the importer that flue-cured and burley tobacco offered for importation does not exceed the maximum allowable residue levels of any pesticide that has been canceled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Pesticide test sample. An official sample or samples, collected from a lot of tobacco by the AMS Tobacco Programs inspector for analysis by a certified chemist to ascertain the residue levels of pesticides that have been canceled, suspended, revoked, or otherwise prohibited under the FIFRA.

Sample Identification Form (Form TB–89). A document titled "Imported Tobacco Pesticide Residue Analysis" that is approved by the AMS Deputy Administrator of the Tobacco Programs that identifies and accompanies the sample to the testing facility.

2,4,5-T. The common abbreviation for the acid herbicide 2,4,5-Trichlorophenoxyacetic acid.

TDE. DDD or the common abbreviation for the chlorinated insecticide 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethane (CAS number 72–54–8).

Tobacco. Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, in whole leaf or strip form, and the time it enters into the different manufacturing processes. Conditioning, sweating, stemming, and threshing are not regarded as manufacturing processes. Tobacco, as used in this part, does not include manufactured or semi-manufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

4. Section 92.3 is revised to read as follows:

§ 92.3 Location for laboratory testing and kind of services available.

(a) The analytical testing of imported Type 92 flue-cured tobacco samples and

imported Type 93 burley tobacco samples for maximum pesticide residue level determinations is performed at the AMS Science and Technology's Eastern Laboratory, and is located at: USDA, AMS, Science and Technology, Eastern Laboratory (Chemistry), 645 Cox Road, Gastonia, NC 28054–0614.

(b) Domestic-grown tobacco and tobacco products may be analyzed for acid herbicides, chlorinated hydrocarbons, fumigants, and organophosphates at the Science and Technology facility in this section.

(c) The Science and Technology facility performs for the AMS Tobacco Programs the quantitative and confirmatory chemical residue analyses on pesticide test samples of imported tobacco for the following specific pesticides:

(1) Organochlorine pesticides such as Dichloro-diphenyldichloroethylene (DDE), Dichloro Diphenyl Trichloroethane (DDT), 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethane (TDE), Toxaphene, Endrin, Aldrin, Dieldrin, Heptachlor, Methoxychlor, Chlordane, Heptachlor Epoxide, Hexachlorobenzene (HCB), Cypermethrin, and Permethrin. (2) Organophosphorus pesticides such as Formothion. (3) Fumigants such as Ethylene Dibromide (EDB) and Dibromochloropropane (DBCP). (4) Acid herbicides such as 2,4-D, 2,4,5-T, and Dicamba.

5. In § 92.4, paragraph (b) is revised to read as follows:

§ 92.4 Approved forms for reporting analytical results.

* * * * *

(b) Test results of the pesticide analyses for tobacco shall be recorded on "Certificate of Analysis For Official Samples", Form TB–92, and shall be expressed as parts by weight of the residue per one million parts by weight of the tobacco sample (parts per million or ppm), which concentration is representative for each particular pesticide residue found in the lot of tobacco. Form TB–92 is attached to Form TB–89 that is returned to the AMS Tobacco Programs. The analytical data on Form TB–92 substantiates the information placed on Form TB–89.

6. Section 92.5 is revised to read as follows:

§ 92.5 Analytical methods.

Every chemist certified to analyze tobacco samples for pesticide residue contamination shall follow precisely the USDA developed analytical test methods and all successive official method updates, as approved by the AMS Deputy Administrator, Science and Technology. Many of the official analyses for tobacco are found in the following manuals:

(a) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(b) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(c) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

7. Section 92.6 is revised to read as follows:

§ 92.6 Cost for pesticide analysis set by cooperative agreement.

The fee for the pesticide analysis of tobacco is set by the AMS Tobacco Programs, in conjunction with the AMS Science and Technology program, and appears at 7 CFR 29.500 as part of Tobacco Programs' fees for sampling and certification of imported flue-cured and burley tobacco. A Memorandum of Understanding (MOU) exists between the Tobacco Programs and the Science and Technology (S&T) for the testing of imported tobacco samples for pesticide residue contamination, and the corresponding agreement on the cost of analyses is specified in the MOU.

PART 93—[AMENDED]

1. The authority citation part 93 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 93.2 [Amended]

2. In § 93.2, the definitions for "Brix or degrees Brix", "Brix value" and "Recoverable oil" are revised to read as follows:

§ 93.2 Definitions.

* * * * *

Brix or degrees Brix. The percent by weight concentration of the total soluble solids of the juice or citrus product when tested with a Brix hydrometer calibrated at 20 °C (68 °F) and to which any applicable temperature correction has been made. The Brix or degrees Brix may be determined by any other method which gives equivalent results.

Brix value. The pure sucrose or soluble solids value of the juice or citrus product determined by using the refractometer along with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acidity is added. The Brix value is determined in accordance with the refractometer method outlined in the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II.

* * * * *

Recoverable oil. The percent of oil by volume, determined by the bromate titration method after distillation and acidification as described in the current edition of the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II.

* * * * *

3. Section 93.3 is revised to read as follows:

§ 93.3 Analyses available and location of laboratory.

(a) Laboratory analyses of citrus juice and other citrus products are being performed at the following Science and Technology location: USDA, AMS, S&T Eastern Laboratory (Citrus), 98 Third Street, SW., Winter Haven, FL 33880.

(b) Laboratory analyses of citrus fruit and products in Florida are available in order to determine if such commodities satisfy the quality and grade standards set forth in the Florida Citrus Code (Florida Statutes Pursuant to Chapter 601). Such analyses include tests for acid as anhydrous citric acid, Brix, Brix/acid ratio, recoverable oil, and artificial coloring matter additive, as turmeric. The Fruit and Vegetable Inspectors of the Division of Fruit and Vegetable of the Florida Department of Agriculture and Consumer Services may also request analyses for arsenic metal, pulp wash (ultraviolet and fluorescence), standard plate count, yeast with mold count, and nutritive sweetening ingredients as sugars.

(c) There are additional laboratory tests available upon request at the Science and Technology Eastern (Citrus) Laboratory at Winter Haven, Florida. Such analyses include tests for vitamins, naringin, sodium benzoate, *Salmonella,* protein, salt, pesticide residues, sodium metal, ash, potassium metal, and coliforms for citrus products.

§ 93.4 [Amended]

4. Section 93.4 is revised to read as follows:

§ 93.4 Analytical methods.

(a) The majority of analytical methods for citrus products are found in the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(b) Other analytical methods for citrus products may be used as approved by the AMS Deputy Administrator, Science and Technology (S&T).

5. Section 93.5 is revised to read as follows:

§ 93.5 Fees for citrus product analyses set by cooperative agreement.

The fees for the analyses of fresh citrus juices and other citrus products shall be set by mutual agreement between the applicant, the State of Florida, and the AMS Deputy Administrator, Science and Technology programs. A Memorandum of Understanding (MOU) or cooperative agreement exists presently with the AMS Science and Technology and the State of Florida, regarding the set hourly rate and the costs to perform individual analytical tests on Florida citrus products, for the State.

6. In § 93.11, the definitions for "Aflatoxin" and "Peanut Administrative Committee (PAC)" are revised to read as follows:

§ 93.11 Definitions.

* * * * *

Aflatoxin. A toxic metabolite produced by the molds *Aspergillus flavus, Aspergillus parasiticus,* and *Aspergillus nomius.* The aflatoxin compounds fluoresce when viewed under UV light as follows: aflatoxin B_1 and derivatives with a blue fluorescence, aflatoxin B_2 with a blue-violet fluorescence, aflatoxin G_1 with a green fluorescence, aflatoxin G_2 with a green-blue fluorescence, aflatoxin M_1 with a blue-violet fluorescence, and aflatoxin M_2 with a violet fluorescence. These closely related molecular structures are referred to as aflatoxin B_1, B_2, G_1, G_2, M_1, M_2, GM_1, B_{2a}, G_{2a}, R_0, B_3, 1-OCH_3B_2, and 1-CH_3G_2.

Peanut Administrative Committee (PAC). The committee established under the United States Department of Agriculture Marketing Agreement for Peanuts, 7 CFR part 998, which administers the terms and provisions of this Agreement, including the aflatoxin control program for domestically produced raw peanuts, for peanut shellers. The Peanut Administrative Committee (PAC) headquarters are at 2537 Lafayette Plaza Drive Suite A; Albany, Georgia 31707.

* * * * *

7. Section 93.12 is revised to read as follows:

§ 93.12 Analyses available and locations of laboratories.

(a) *Aflatoxin testing services.* The aflatoxin analyses for peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, cottonseed, oilseed products and other commodities are performed at the following 6 locations for AMS Science and Technology (S&T) Aflatoxin Laboratories:

(1) USDA, AMS, S&T
1211 Schley Avenue, Albany, GA 31707.

(2) USDA, AMS, S&T
c/o Golden Peanut Company, Mail: P.O. Box 279, 301 West Pearl Street, Aulander, NC 27805.

(3) USDA, AMS, S&T
610 North Main Street, Blakely, GA 31723.

(4) USDA, AMS, S&T
107 South Fourth Street, Madill, OK 73446.

(5) USDA, AMS, S&T
c/o Cargill Peanut Products, Mail: P.O. Box 272, 715 North Main Street, Dawson, GA 31742–0272.

(6) USDA, AMS, S&T
Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434.

(b) *Peanuts, peanut products, and oilseed testing services.*

(1) The Science and Technology (S&T) Aflatoxin Laboratories at Madill, Oklahoma and Blakely, Georgia will perform other analyses for peanuts, peanut products, and a variety of oilseeds. The analyses for oilseeds include testing for free fatty acids, ammonia, nitrogen or protein, moisture and volatile matter, foreign matter, and oil (fat) content.

(2) All of the analyses described in paragraph (b)(1) of this section performed on a single seed sample are billed at the rate of one hour per sample. Any single seed analysis performed on a single sample is billed at the rate of one-half hour per sample. The standard hourly rate shall be as specified in § 91.37(a) of this subchapter.

(c) *Vegetable oil testing services.* The analyses for vegetable oils are performed at the USDA, AMS, Science and Technology (S&T) Midwestern Laboratory, 3570 North Avondale Avenue, Chicago, IL 60618–5391. The analyses for vegetable oils will include the flash point test, smoke point test, acid value, peroxide value, phosphorus in oil, and specific gravity. The fee charged for any single laboratory analysis for vegetable oils shall be obtained from the Midwestern Laboratory Director and it is based on the hourly fee rates and charges as specified in 7 CFR part 91, subpart I.

8. Section 93.13 is revised to read as follows:

§ 93.13 Analytical methods.

Official analyses for peanuts, nuts, corn, oilseeds, and related vegetable oils are found in the following manuals:

(a) Approved Methods of the American Association of Cereal Chemists (AACC), American Association of Cereal Chemists/Eagan Press, 3340 Pilot Knob Road, St. Paul, Minnesota 55121–2097.

(b) ASTA's Analytical Methods Manual, American Spice Trade Association (ASTA), 560 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, New Jersey 07632.

(c) Analyst's Instruction for Aflatoxin (August 1994), S&T Instruction No. 1, USDA, Agricultural Marketing Service, Science and Technology, 3521 South Agriculture Building, 1400 Independence Avenue, SW., P.O. Box 96456, Washington, DC 20090–6456.

(d) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, P.O. Box 3489, 2211 West Bradley Avenue, Champaign, Illinois 61821–1827.

(e) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), 1701 Pennsylvania Avenue, NW., Washington, DC 20006.

(g) U.S. Army Natick Research, Development and Engineering Center's Military Specifications, approved analytical test methods noted therein, Code NPP–9, Department of Defense Single Stock Point (DODSSP) for Military Specifications, Standards, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111–5094.

9. Section 93.14 is revised to read as follows:

§ 93.14 Fees for aflatoxin analysis and fees for testing of other mycotoxins.

(a) The fee charged for any laboratory analysis for aflatoxins and other mycotoxins shall be obtained from the Laboratory Director for aflatoxin laboratories at the Dothan administrative office as follows: USDA, AMS, Science & Technology, 3119 Wesley Way, Suite 6, Dothan, Alabama 36305, Voice Phone: 334–794–5070, Facsimile: 334–792–1432.

(b) The charge for the aflatoxin testing of raw peanuts under the Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD is a set cost per pair of analyses and shall be set by cooperative agreement between the Peanut Administrative Committee and AMS Science and Technology program.

10. Section 93.15 is revised to read as follows:

§ 93.15 Fees for analytical testing of oilseeds.

The fee charged for any laboratory analysis for oilseeds shall be obtained from the Laboratory Director for aflatoxin laboratories at the Dothan administrative office as listed in 7 CFR 93.14(a).

PART 94—[AMENDED]

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

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056), Agricultural Marketing Act of 1946, Secs. 202–208 as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

2. In § 94.2, the definitions for "Egg", "Egg product" and "Mandatory sample" are revised to read as follows:

§ 94.2 Definitions.

* * * * *

Egg. The shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are defined by the AMS Poultry Programs in 7 CFR 57.5.

Egg product. Any dried, frozen, or liquid eggs, with or without added ingredients. However, products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry may be exempted by the Secretary under such conditions as may be prescribed to assure that the egg ingredients are not adulterated and such products are not represented as egg products. Some of the products exempted as not being egg products are specified by the AMS Poultry Programs in 7 CFR 57.5.

Mandatory sample. An official sample of egg product(s) taken for testing under authority of the Egg Products Inspection Act (21 U.S.C. 1031–1056) for analysis by a United States Department of Agriculture, Agricultural Marketing Service, Science and Technology laboratory at government expense. A mandatory sample shall include an egg product sample to be analyzed for microbiological, chemical, or physical attributes. A mandatory egg product sample analyzed for the presence of *Salmonella* is also referred to as a confirmation sample as specified by the Food Safety and Inspection Service agency of USDA in 9 CFR 590.580, paragraph (d).

* * * * *

3. In § 94.3, paragraphs (a), (b) and (e) are revised to read:

§ 94.3 Analyses performed and locations of laboratories.

(a) Samples drawn by a USDA egg products inspector will be analyzed by AMS Science and Technology (S&T) personnel for microbiological, chemical, and physical attributes. The analytical results of these samples will be reported to the resident egg products inspector at the applicable plant on the official certificate.

(b) Mandatory egg product samples for *Salmonella* are required and are analyzed in S&T laboratories to spot check and confirm the adequacy of USDA approved and recognized laboratories for analyzing routine egg product samples for *Salmonella*.

* * * * *

(e) The AMS Science and Technology's Eastern Laboratory shall conduct the majority of laboratory analyses for egg products. The analyses for mandatory egg product samples are performed at the following USDA location: USDA, AMS, Science & Technology, Eastern Laboratory (Microbiology), 2311–B Aberdeen Boulevard, Gastonia, NC 28054–0614.

4. Section 94.4 is revised to read as follows:

§ 94.4 Analytical methods.

The majority of analytical methods used by the USDA laboratories to perform mandatory analyses for egg products are listed as follows:

(a) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.

(b) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159–0945.

(c) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(d) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(e) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.

(g) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(h) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW–846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

(i) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

PART 98—[AMENDED]

1. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In part 98, the words "Science and Technology Division" are revised to read "Science and Technology", and the word "S&TD" is revised to read "S&T" everywhere they appear.

Dated: October 20, 2000.

Robert L. Epstein,

Acting Deputy Administrator, Science and Technology, Agricultural Marketing Service.

[FR Doc. 00–27482 Filed 10–25–00; 8:45 am]

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Part V

Department of Housing and Urban Development

24 CFR Part 7

Equal Employment Opportunity; Updating of EEO Policies and Procedures; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 7

[Docket No. FR–4607–P–01]

RIN 2501–AC73

Equal Employment Opportunity; Updating of EEO Policies and Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends HUD's regulations governing the Department's equal employment opportunity policies, procedures and programs. The amendments update the Department's current EEO regulations and make them consistent with recently issued regulations of the Equal Employment Opportunity Commission (EEOC).

DATES: Comment due date: November 27, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of the General Counsel, Regulations Division, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each comment submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) eastern time at the above address.

FOR FURTHER INFORMATION CONTACT: William C. King, Director, Office of Departmental Equal Employment Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708–5921. (This telephone number is not toll-free.) Persons with hearing or speech impairments may access this number via TTY by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule updates HUD's regulations in 24 CFR part 7 that pertain to the Department's equal employment opportunity policies, procedures and programs. The amendments to be made by this proposed rule will provide for regulations that supersede the last revision of part 7, issued on April 29, 1996. This rule proposes to conform to HUD's regulations to the recently amended EEOC regulations in 29 CFR part 1614. The revised part 1614 regulations became effective on November 9, 1999 (see final rule issued July 12, 1999, at 64 FR 37644). In addition, this proposed rule provides HUD's current and former employees and applicants with a more complete guide to the processing of equal employment opportunity (EEO) complaints. The most significant change proposed by this rule is the establishment of an Alternative Dispute Resolution (ADR) program designed to promote impartial, fair and early resolution of EEO complaints.

II. Changes to Part 7 Proposed by This Rule

The revisions proposed by this rule (in regulatory section numerical sequence) are as follows:

Section 7.1 Policy

This section adds reference to Executive Order 12871.

Section 7.2 Definitions

This section defines and in some cases explains the following terms and acronyms which are used in this part: *aggrieved individual, Alternative Dispute Resolution, claim, comparable, conflict-of-interest complaint, Director of Equal Employment Opportunity, disability, Diversity Program Manager, EEO, EEOC, Equal Employment Opportunity Discrimination Complaint Manager, EEO Officer Pro Tem, final decision, final action, final order, neutral, organizational unit, record and reprisal.*

Section 7.3 Designations

This section explains that cases presenting a conflict-of-interest for the Office of Departmental Equal Employment Opportunity (ODEEO) will be transferred for processing to an EEO Officer Pro Tem (an official at a neutral federal agency). The Director of EEO will make such determinations as to the appropriateness of and need for such transfers on a case-by-case basis. This section also requires that each organizational unit appoint an Equal Employment Opportunity Discrimination Complaint Manager (DCM) and a Diversity Program Manager.

Section 7.5 EEO Alternative Dispute Resolution Program

This section describes the Department's alternative dispute resolution (ADR) program for EEO matters.

Section 7.10 Responsibilities of the Director of EEO

This section identifies the Director's responsibility to provide an ADR program for EEO matters at the pre-complaint and formal complaint stages of the EEO process. This section also identifies the Director's responsibility to provide mandatory annual EEO and ADR training for supervisors and managers. Such training may be a component of Department-wide supervisory and management training developed in coordination with the Offices of Human Resources and General Counsel.

Section 7.11 Responsibilities of the EEO Officers

This section identifies the EEO Officer's duty to assist in providing for and ensuring managers' and supervisors' mandatory participation in EEO ADR training and cooperation with the ADR process.

Section 7.12 Responsibilities of the EEO Counselors

This section is expanded to clearly describe the enhanced responsibilities of the EEO Counselors.

Section 7.13 Responsibilities of the Assistant Secretary for Administration

This section requires the coordination of mandatory EEO ADR training for EEO Counselors, supervisors and managers.

Section 7.14 Responsibilities of the Office of Human Resources

This section requires the development of an ongoing Department-wide training program for supervisors and managers, to ensure understanding of the EEO ADR Program and coordination between and among the Director of EEO, the HUD Training Academy, the Office of General Counsel and the Office of Human Resources to provide the required EEO ADR training.

Section 7.15 Responsibilities of Managers and Supervisors

This section adds the requirement of mandatory attendance by managers and supervisors at annual EEO ADR management and supervisory training, and the requirement of full cooperation during ADR and throughout the EEO complaint processing and investigation process.

Section 7.16 Responsibilities of Employees

This section reiterates the requirement of employee cooperation during EEO counseling, EEO investigations, ADR and throughout the entire EEO complaint process.

Section 7.26 EEO Alternative Dispute Resolution Program

This new section describes the EEO ADR Program made available in the EEO process.

Section 7.37 Final Action

This new section explains the various types of EEO final actions which result in final decisions and orders by the Department and EEOC Administrative Judges.

Section 7.38 Appeals

This new section explains the appeal procedures and the time limitations.

Section 7.39 Negotiated Grievance, MSPB Appeal and Administrative Grievance Procedures

This new section explains the other complaint processes available to Department employees.

Section 7.40 Remedies and Enforcement

This new section explains the remedies and the enforcement procedures to be followed in EEO cases where discrimination is found.

Section 7.41 Compliance with EEOC Final Decisions

This new section explains the procedures to be followed by the Department when relief is ordered by EEOC.

Section 7.42 Enforcement of EEOC Final Decisions

This new section explains the procedures regarding the enforcement of EEOC's final decisions.

Section 7.43 Settlement Agreements

This new section explains the procedures for compliance with settlement agreements and final actions.

Section 7.44 Interim Relief

This new section explains how interim relief is granted when the Department appeals an EEOC decision.

Section 7.45 EEO Group Statistics and Reports

This new section describes the EEOC's requirements for the collection of statistics, accurate employment applicant flow information and other EEO data, and the submission of annual reports.

III. Justification for Shortened Public Comment Period

It is the general practice of the Department to provide a 60-day public comment period on all proposed rules. The Department, however, is reducing its usual 60-day public comment period to 30 days for this proposed rule. This rule pertains primarily to HUD employees and through HUD's internal review process, this rule already has been disseminated to HUD employees, for review and comment.

IV. Findings and Certifications

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. This proposed rule involves internal HUD operations and pertains only to current/former employees and applicants for employment at HUD.

Environmental Impact

In accordance with 24 CFR 50.19(c)(3) of HUD's regulations, this proposed rule would provide for the enforcement of nondiscrimination within HUD, and therefore is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347).

Executive Order 13132, Federalism

This rule does not have Federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule would not impose any Federal mandates on any State, local, or tribal government, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 7

Administrative practice and procedure, Equal employment opportunity, Organization and functions (Government agencies).

Accordingly, 24 CFR part 7 is proposed to be revised as follows:

PART 7—EQUAL EMPLOYMENT OPPORTUNITY; POLICY, PROCEDURES AND PROGRAMS

Subpart A—Equal Employment Opportunity Without Regard to Race, Color, Religion, Sex, National Origin, Age, Disability or Reprisal

General Provisions

Responsibilities

Pre-Complaint Processing

Complaints

Other Complaint and Appeal Procedures

Remedies, Enforcement and Compliance

Statistics and Reporting Requirements

Subpart B—[Reserved]

Authority: 29 U.S.C. 206(d), 633a, 791 and 794; 42 U.S.C. 2000e note, 2000e–16, 42 U.S.C. 3535(d); E.O. 11478 of Aug. 8, 1969; 34 FR 19285, Aug. 12, 1969; E.O. 10577, 3 CFR 1954–1958; E.O. 11222, 3 CFR 1964–965.

Subpart A—Equal Employment Opportunity Without Regard to Race, Color Religion, Sex, National Origin, Age, Disability or Reprisal

General Provisions

§ 7.1 Policy.

The Department's equal employment opportunity policy conforms with the policies expressed in title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4); the Civil Rights Act of 1991; Executive Order 11478 of 1969 (34 FR 12985, 3 CFR 1966–1970 Comp., p. 803); the Age Discrimination in Employment Act of 1967 (ADEA) (29 U.S.C. *et seq.*); the Equal Pay Act of 1963 (29 U.S.C. 206d); sections 501 and 504 of the Rehabilitation Act of 1973, and reaffirming Executive Order 12871 (29 U.S.C. 791, 794); the Civil Service Reform Act of 1978 (5 U.S.C. 1101 *et seq.*); Executive Order 13087 of 1998 (63 FR 30097); and with the EEOC's implementing regulations, codified under 29 CFR part 1614. It is HUD's policy to provide equality of opportunity in employment in the Department for all persons; to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, disability or reprisal in all aspects of its personnel policies, programs, practices, and operations and in all its working conditions and relationships with current or former employees and applicants for employment; and to promote the full realization of equal opportunity in employment through continuing programs of affirmative employment at every level within the Department. Procedures for filing EEO claims are found in the EEOC regulations at 29 CFR part 1614. HUD is committed to promoting affirmative employment through the removal of barriers and by positive actions at every level, including the early resolution of EEO disputes.

§ 7.2 Definitions.

AE means affirmative employment.

Aggrieved individual means a person who suffers a present harm or loss with respect to a term, condition, or privilege of employment for which there is a remedy. The terms "aggrieved individual" and "aggrieved person", as used in this part, are interchangeable.

Alternative Dispute Resolution (ADR) means a variety of approaches used to resolve conflict rather than traditional adjudicatory or adversarial methods such as litigation, hearings, and administrative processing and appeals. The approaches used may include, but are not limited to: negotiation, conciliation, facilitation, mediation, fact-finding, peer review, mini-trial, arbitration, or ombudsman.

Claim means action the agency has taken or is taking that causes the aggrieved person to believe that he or she is a victim of discrimination. This term replaces the formerly used term "allegation" and is used interchangeably with the term "issue".

Comparable means a person designated as head of an organizational unit that is analogous to that headed by an Assistant Secretary.

Conflict-of-interest complaint means an EEO complaint arising in the Department which names the Director of EEO or the Deputy Director of EEO, or both, as the responsible management officials.

Director of Equal Employment Opportunity (EEO) means the Director of HUD's Office of Departmental Equal Employment Opportunity who is also designated as the Director of EEO in this part.

Disability means the same as the term "handicap" under EEOC's regulations at 29 part 1614.

Discrimination Complaint Manager (DCM) means the designee, appointed by the Assistant Secretary (EEO Officer) or the Assistant Secretary's comparable, who assists the EEO Officer in discharging his or her EEO responsibilities and is responsible for carrying out the EEO discrimination complaint process for the organizational unit pursuant to the applicable civil rights laws, the regulations at 29 CFR part 1614 and this part.

Diversity Program Manager means the designee appointed by the Assistant Secretary (EEO Officer) or the Assistant Secretary's comparable who assists the EEO Officer in promoting appreciation of the contributions of women, minorities, and persons with disabilities, and in promoting the value of all Department employees.

EEO means equal employment opportunity.

EEO Officer Pro Tem means the Chief of Staff or an official at a neutral federal agency designated to process an EEO claim that would be a conflict of interest for the Director of EEO or the Deputy Director of EEO, or both.

EEOC and *Commission* mean the Equal Employment Opportunity Commission.

Final action means the Department's issuance of a final decision or final order.

Final decision means HUD's determination of the findings of fact and law on the merits or the procedural issues of an EEO complaint based upon the available record.

Final order means the Department's final action which states whether the Department will fully implement the decision or order of an EEOC Administrative Judge, or both.

Neutral means an individual who mediates or otherwise functions to specifically aid the parties in resolving the issues, and has no official, financial, or personal conflict of interest with respect to the issues being disputed, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

Organizational unit means the jurisdictional area of the Department's program offices such as the Office of the Secretary, the Office of General Counsel, etc.

Record means all documents related to the EEO complaint as outlined in EEOC Management Directive 110.

Reprisal means the action taken against a current or former employee or applicant in retaliation for previous EEO participation in protected EEO activity or for opposing employment practice or policy illegal under EEO statutes. The terms "reprisal" and "retaliation" are used interchangeably.

§ 7.3 Designations.

(a) *Director of Equal Employment Opportunity.* The Director of the Office of Departmental Equal Employment Opportunity (ODEEO) is designated as the Director of EEO, except for complaints naming the Director or Deputy Director of Departmental EEO, or both, as the responsible management official(s) in complaints arising in the ODEEO which present a conflict-of-interest. In such cases, the Director of EEO may:

(1) Transfer the case to the Chief of Staff for processing; or

(2) On behalf of the Department, enter into an agreement with one or more federal agencies for processing of the Department's conflict-of-interest cases by the designated federal official chosen to serve as the EEO Officer Pro Tem.

(b) *Deputy Director of Equal Employment Opportunity.* The Deputy Director of the ODEEO is designated as the Deputy Director of EEO and acts in the absence of the Director of EEO.

(c) *Equal Employment Opportunity Officer.* The Director of EEO shall designate the Assistant Secretary or the Assistant Secretary's comparable as EEO Officer for the Department's respective organizational units for complaints arising in the respective Assistant Secretary's or Assistant Secretary's comparable organizational unit.

(d) *Equal Employment Opportunity Discrimination Complaint Manager (DCM).* Each Assistant Secretary (EEO

Officer) shall designate a DCM to represent the organizational unit in EEO matters and assist the EEO Officer in carrying out EEO responsibilities. The DCM shall be the Administrative Officer (AO) for the organizational unit or another designee of the EEO Officer.

§ 7.4 Affirmative employment programs.

The Office of the Secretary, each Assistant Secretary, the General Counsel, the Inspector General, the President of the Government National Mortgage Association, the Chief Financial Officer, the Chief Procurement Officer, the Chief Information Officer, the Director of Lead Hazard Control, the Director of the Office of Multifamily Housing Assistance Restructuring, the Director of the Departmental Enforcement Center, the Director of the Real Estate Assessment Center, and the Director of the Office of Federal Housing Enterprise Oversight and other positions that may be established and are comparable to an Assistant Secretary, shall establish, maintain and carry out a plan of affirmative employment (AE) to promote equal opportunity in every aspect of employment policy and practice. Each plan shall identify instances of under-representation of minorities, women and persons with disabilities, recognize situations or barriers that impede equality of opportunity, and include objectives and action items targeted to eliminate any employment, training, advancement, and retention issues which adversely affect minorities, women and persons with disabilities. Each plan must be consistent with 29 CFR part 1614, is subject to approval by the Director of EEO and shall be developed within the framework of Department-wide guidelines published by the Director of EEO.

§ 7.5 EEO Alternative Dispute Resolution Program.

In accordance with the Secretary's Policy Statement regarding Alternative Dispute Resolution (ADR) located on the Department's website and 29 CFR 1614.102(b)(2), the Department shall establish and maintain an ADR program that addresses, at a minimum, EEO matters at the pre-complaint and formal complaint stages of the EEO process. ADR is a non-adversarial process that does not render a judgment with respect to the dispute. With the assistance of an impartial and neutral third party, ADR offers parties involved the opportunity to reach early and informal resolution of EEO matters in a mutually satisfactory fashion.

(a) *Program availability.* In appropriate cases, the EEO ADR Program is made available to an aggrieved person or Complainant during the pre-complaint and the formal complaint processing periods. Participation in the program by the aggrieved person or complainant, is voluntary. However, managers and supervisors shall cooperate in the ADR process once the aggrieved person or complainant has requested to participate and the ODEEO has determined that the matter is appropriate for ADR. Participation in the EEO ADR Program at the formal complaint stage of the EEO process will be determined on a case-by-case basis by the appropriate ODEEO official designated by the Director of EEO and does not affect the processing of the formal complaint, including the investigation.

(b) *EEO ADR program procedures.* The ODEEO shall establish and maintain all EEO ADR Program procedures which include appropriate consultations.

(c) *ADR training.* Training and education on the EEO ADR Program will be provided to all Department employees, managers and supervisors, and other persons protected under the applicable laws.

(d) *Pre-complaint ADR election process.* The appropriateness of a particular EEO matter or EEO complaint for the Department's ADR Program shall be determined on a case-by-case basis by the ODEEO official designated by the Director of EEO. The EEO Counselor shall advise the aggrieved person that the aggrieved person may choose between participation in the EEO ADR Program or the EEO traditional counseling activities provided for at 29 CFR 1614.105(c). The aggrieved person's election to proceed through ADR instead of EEO counseling is final.

(e) *ADR counseling requirements.* (1) The minimum information to be provided by the EEO Counselor about the Department's ADR Program includes the following:

(i) Definition of the term ADR;

(ii) An explanation of the stages in the EEO process at which ADR may be available;

(iii) A description of the ADR technique(s) used by the Department;

(iv) A description of how the program is consistent with the EEO ADR core principles that ensure fairness and require voluntariness, neutrality, confidentiality, and enforceability;

(v) An explanation of procedural and substantive alternatives; and

(vi) All time frames for the EEO administrative process including ADR.

(2) The EEO Counselor shall have no further involvement in resolving the EEO matter after the referral to the EEO ADR program.

(f) *Extension of pre-complaint processing period for ADR.* Where the aggrieved person chooses to participate in ADR, the pre-complaint processing period shall not exceed 90 days from the date of initial contact with the EEO Office.

(1) The aggrieved person shall be informed in writing by the EEO Counselor, no later than the thirtieth day after contacting the EEO Counselor, of the right to file a discrimination complaint, if the matter presented by the aggrieved person has not been resolved.

(2) Prior to the end of the 30-day period from the date of initial contact with the EEO Office, the aggrieved person may agree, in writing, with the Department to postpone the final interview and extend the pre-complaint period for an additional period of no more than 60 days if the matter is not resolved. If the matter has not been resolved before the conclusion of the agreed extension, the notice of right to file a discrimination complaint shall be issued no later than the 90th day of initial contact with the EEO Office. The notice shall inform the aggrieved person of the right to file a discrimination complaint within 15 days of receipt of the notice, of the appropriate official with whom to file a complaint and of the aggrieved person's duty to assure that the Department is informed immediately if the aggrieved person retains counsel or a representative and if the aggrieved person changes address.

(g) *EEO ADR Program's relationship to negotiated grievance, MSPB appeal and administrative grievance procedures.* Participation in the EEO ADR program does not preclude the aggrieved person or Complainant from exercising rights under any of the Department's other complaint or appeal procedures, when no resolution is reached. When participation in ADR results in a settlement agreement and the aggrieved person or Complainant believes the Department has failed to comply with its terms, the aggrieved person or Complainant may exercise the right of appeal pursuant to 29 CFR 1614.504.

Responsibilities

§ 7.10 Responsibilities of the Director of EEO.

The Director and Deputy Director of EEO are responsible for:

(a) Advising the Secretary with respect to the preparation of plans, procedures, regulations, reports, and other matters pertaining to the

Government's equal employment opportunity policy and the Department's EEO/ADR/AE programs;

(b) Developing and maintaining plans, procedures, and regulations necessary to carry out the Department's EEO programs, including a Department-wide program of affirmative employment developed in coordination with other officials; and approving programs of affirmative employment established by each EEO Officer or comparable organizational head;

(c) Evaluating, at least annually, the sufficiency of each organizational unit's EEO/ADR/AE program and providing reports thereon to the Secretary with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibility;

(d) Appraising the Department's personnel operations at regular intervals to ensure their conformity with the policies of the Government's and the Department's EEO program;

(e) Making changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's EEO/ADR/AE programs;

(f) Selecting EEO Counselors;

(g) Providing for counseling by an EEO Counselor to a current or former employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age, disability, or in retaliation for participation in protected EEO activity; or for opposing a policy or practice illegal under EEO statutes;

(h) Providing for the prompt, fair and impartial processing of individual complaints involving claims of discrimination within the Department subject to 29 CFR part 1614;

(i) Making the final decision on discrimination complaints and ordering such corrective measures as may be necessary, including disciplinary action warranted in circumstances where an employee has been found to have engaged in a discriminatory practice.

(j) Executing settlement agreements to resolve EEO complaints;

(k) Making available an ADR Program for EEO matters at both the pre-complaint and formal EEO complaint stages of the EEO administrative process;

(l) Developing and providing annual mandatory EEO and ADR training for EEO Counselors, and all supervisors and managers in conjunction with HUD Training Academy, Office of Human Resources, and the Office of General Counsel, other federal agencies and resources with ADR information and expertise; and

(m) Publicizing to all employees and posting at all times the names, business telephone numbers and addresses of the EEO Counselors, EEO Director, EEO Officers, and Diversity Program Managers, notice of EEO complaint processing time limits and the requirements of contacting an EEO Counselor and completing the counseling phase before filing a complaint.

§ 7.11 Responsibilities of the EEO Officers.

Each EEO Officer is responsible for:

(a) Advising the Director of EEO on all matters affecting the implementation of the Department's EEO/ADR/AE policies and programs in the organizational unit;

(b) Developing and maintaining a program of affirmative employment for the organizational unit and ensuring that the program is carried out in an exemplary manner;

(c) Publicizing to all employees of the organizational unit the name and address of the Director of EEO, the EEO Officer(s), and the EEO Counselor(s), the EEO Discrimination Complaint Manager(s), the Affirmative Employment Program (AEP) Manager, the Diversity Program Manager, ADR Officials, and the EEO complaint procedures;

(d) Informing all managers and supervisors in the organizational unit of the responsibilities and objectives of the EEO Counselors, DCMs, ADR officials, EEO investigators, and of the EEO complaint process and the importance of cooperating and coordinating with all appropriate Department personnel to informally find solutions to problems brought to the EEO Officer's attention by current or former employees and applicants;

(e) Evaluating and documenting the performance by the managers and supervisors in the organizational unit in carrying out their responsibilities under this subpart;

(f) Seeking a resolution of EEO matters brought to their attention;

(g) Designating a senior level Affirmative Employment Program (AEP) Manager in Headquarters responsible for preparing the AEP plan; managing the plan; providing advice and guidance to managers and supervisors in removing barriers to EEO/AE/ADR and in implementing all of their EEO/AE responsibilities; and reviewing all recruitment and personnel actions taken by managers and supervisors to ensure the achievement of AEP objectives;

(h) Designating the Administrative Officer (AO) or other Headquarters organizational unit official as the DCM to manage and direct the organization's EEO responsibilities. In making such designation, the EEO Officer shall ensure that the designation as the DCM does not otherwise conflict with the official duties of the employee so designated;

(i) Designating a senior level Diversity Program Manager in HUD Headquarters to manage and direct the organization's Diversity Program and providing resources for diversity activities for its employees;

(j) Ensuring the successful operation of the EEO/AE/ADR Program by requiring management's support;

(k) Approving and making reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operations of Department; and

(l) Adhering to and implementing the Department's policy on religious accommodation.

§ 7.12 Responsibilities of the EEO Counselors.

The EEO Counselor is responsible for counseling and attempting resolution of matters brought to the EEO Counselor's attention pursuant to §§ 7.25 and 7.30 and 29 CFR part 1614, by any current or former employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age, disability or in reprisal for participating in EEO activity or opposing policies and practices that are illegal under the EEO statutes. These responsibilities include, but are not limited to:

(a) Advising individuals, in writing, of their rights and responsibilities, including:

(1) The right to request a hearing and decision from EEOC or an immediate final decision from the agency after an investigation;

(2) Election rights;

(3) The right to file a notice of intent to sue and a lawsuit under the ADEA instead of an administrative complaint of age discrimination; and

(4) The duty to mitigate damages;

(5) Relevant time frames.

(b) EEO Counselors shall advise aggrieved persons that only the claims raised in pre-complaint counseling (or issues or claims like or related to claims raised in pre-complaint counseling) may be alleged in a subsequent complaint filed with the Department.

(c) EEO Counselors shall advise aggrieved persons of their duty to keep

the Department and EEOC informed of their current address and the name of the representative, if applicable, and to serve copies of hearing and appeal notices on the Department.

(d) EEO Counselors shall provide to the aggrieved person the notice of the right to file an individual or a class complaint. If the aggrieved person informs the EEO Counselor that the aggrieved person wishes to file a class complaint, the EEO Counselor shall explain the class complaint procedures and the responsibilities of a class agent and provide class complaint counseling prior to the issuance of the notice of right to file a complaint.

(e) EEO Counselors shall advise aggrieved persons that, where the Department agrees to offer ADR in a particular case, they may choose between participation in the EEO ADR Program and the traditional EEO counseling process. The EEO Counselor shall conduct the final interview with the aggrieved person within 30 days of the date the aggrieved person initially contacted the Department's EEO office to request counseling, unless the aggrieved person agrees to a longer counseling period or if the aggrieved person elects the ADR program and agrees to extend the initial 30-day pre-complaint period for an additional period of no more than 60 days.

(f) If the matter has not been resolved before the conclusion of the agreed extension, the EEO Counselor shall issue the notice of right to file a discrimination complaint no later than the 90th day of the aggrieved person's initial contact with the EEO Office. The notice shall inform the aggrieved person of the right to file a discrimination complaint within 15 days of receipt of the notice; of the appropriate official with whom to file a complaint; and of the aggrieved person's duty to assure that the Department is informed immediately if the aggrieved person retains counsel or a representative and if the aggrieved person changes address.

(g) EEO Counselors shall prepare a report sufficient to document the fact that the required counseling actions were taken and an attempt to resolve any jurisdictional questions was made. The report shall include a precise description of the claim(s) and the basis(es) identified by the aggrieved person; pertinent documents gathered during the inquiry, specific information concerning timeliness of the initial counseling contact, and a statement as to whether a resolution attempt was undertaken, and if so, the disposition.

(h) EEO Counselors shall not attempt in any way to dissuade the aggrieved person from filing an EEO complaint. The EEO Counselor shall not reveal to the responsible management officials the identity of an aggrieved person who consulted the EEO Counselor, except when authorized to do so by the aggrieved person, or until the Department has received a formal discrimination complaint from that person involving that same matter.

§ 7.13 Responsibilities of the Assistant Secretary for Administration.

The Assistant Secretary for Administration shall:

(a) Provide leadership in developing and maintaining personnel management policies, programs, automated systems and procedures which will promote continuing affirmative employment to ensure equal opportunity in the recruitment, selection, placement, training, awards, recognition and promotion of employees, including an applicant flow tracking system;

(b) Provide positive assistance and guidance to organizational units and personnel offices to ensure the effective implementation of the personnel management policies, programs, automated systems, and EEO procedures;

(c) Participate at the national level with other government departments and agencies, other employers, and other public and private groups, in cooperative action to improve employment opportunities and community conditions which affect employability;

(d) Prepare and implement plans for recruitment and reports in accordance with the Federal Equal Opportunity Recruitment Program (FEORP) and the Disabled Veterans Affirmative Action Program (DVAAP);

(e) Provide reasonable accommodations to the known physical or mental limitations of qualified employees with disabilities unless the accommodations would impose an undue hardship on the operation of the Department's programs;

(f) Adhere to and implement the Department's policy on religious accommodation;

(g) Designate a senior level Disability Program Manager to promote EEO/ADR/AE for persons with disabilities; to assure the accessibility of all HUD facilities and programs; and to manage the resources for providing reasonable accommodation;

(h) In conjunction with the Director of EEO, provide and coordinate mandatory EEO Counselor training;

(i) Provide and coordinate mandatory supervisors' and managers' EEO/AE/ADR training;

(j) Provide applicant data to ODEEO for analysis; and

(k) Designate a DCM to represent the organizational unit in EEO matters. The DCM shall be the AO for the organizational unit or another designee of the EEO Officer.

§ 7.14 Responsibilities of the Office of Human Resources.

In accordance with guidelines issued by the Assistant Secretary for Administration, Human Resources Officers shall:

(a) Appraise job structure and employment practices to ensure equality of opportunity for all employees to participate fully on the basis of merit in all occupations and levels of responsibility;

(b) Communicate the Department's EEO policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, national origin, disability, or age and solicit their recruitment assistance on a continuing basis;

(c) Upon request, provide personnel information to EEO Counselors and other authorized officials or agents of the agency who are involved in the processing of a discrimination complaint;

(d) Evaluate hiring methods and practices to ensure impartial consideration for all job applicants;

(e) Ensure that new employee orientation programs contain appropriate references to the Department's EEO/ADR/AE policies, procedures and programs and accomplishment of EEO objectives under the Department's Performance, Accountability, Communications System (PACS) or other Departmental performance appraisal system;

(f) Participate in the preparation and distribution of such educational materials as may be necessary to adequately inform all employees of their rights and responsibilities as described in this part, including the Department's EEO program directives;

(g) In coordination with the Director of the HUD Training Academy, develop an on-going training program for supervisors and managers to ensure understanding of the Departmental EEO/ADR/AE programs, policy and other requirements which foster effective teamwork and high morale;

(h) In coordination with the Director of the HUD Training Academy, the Office of General Counsel, the Office of Administration and the Director of EEO, develop an on-going training program for managers and supervisors to ensure understanding of the Department's EEO

and ADR programs. At a minimum, the training should include:

(1) The Civil Rights Act of 1964 (42 U.S.C. 2000d);

(2) Sections 501 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794);

(3) The Administrative Dispute Resolution Act of 1996 (5 U.S.C. 556, 571) and its amendments emphasizing the federal government's interest in encouraging mutual resolution of disputes and the benefits associated with using ADR;

(4) EEOC's regulations and policy guidance concerning EEO, AE and ADR;

(5) The ADR methods employed by the Department;

(6) An explanation of how to draft a settlement agreement that complies with the standards required by ODEEO and 29 CFR part 1614;

(7) An explanation of the recourse available where noncompliance by the Department is alleged; and

(8) Training on EEO policy, programs and procedures;

(i) In coordination with the Director of the HUD Training Academy, the Office of General Counsel, the Office of Administration, and the Director of EEO, the Department may enter into agreements to have EEO/AE/ADR mandatory annual supervisory and management training provided by other federal agencies or other resources;

(j) Decide all personnel actions on merit principles and in a manner which will demonstrate affirmative EEO for the organization;

(k) Ensure to the greatest possible utilization and development of the skills and potential abilities of all employees;

(l) Track applicant flow and promptly take or recommend appropriate action to overcome any impediment to achieving the objectives of the EEO/ADR/AE programs and accomplishing the EEO objectives under the Performance, Accountability, Communications System (PACS) or other Departmental performance appraisal system;

(m) Provide applicant data to ODEEO for analysis; and

(n) Provide recognition to employees, supervisors, managers and units demonstrating superior accomplishments in EEO.

§ 7.15 Responsibilities of managers and supervisors.

All managers and supervisors of the Department are responsible for:

(a) Removing barriers to EEO and ensuring that affirmative employment objectives are accomplished in their areas of responsibility;

(b) Evaluating and documenting subordinate managers and supervisors on their performance of EEO/ADR/AE responsibilities;

(c) Encouraging and taking positive steps to ensure respect for and acceptance of minorities, women and persons with disabilities, veterans and others of diverse characteristics in the workforce;

(d) Ensuring the non-discriminatory treatment of all employees and for providing full and fair opportunity for all employees in obtaining employment and career advancement, including support for ADR, the Upward Mobility Program, the Mentoring Program and the implementation of Individual Development Plans;

(e) Encouraging and authorizing staff participation in the various Diversity Program observances and training opportunities;

(f) Being proactive in addressing EEO/ADR/AE issues, and maintaining work environments that encourage and support complaint avoidance through sound management and personnel practices;

(g) Resolving complaints of discrimination early in the EEO process either independently, or through the use of ADR techniques;

(h) Making reasonable accommodations to the known physical and mental limitations of applicants and employees with disabilities when those accommodations can be made without undue hardship on the business of the Department;

(i) Attending mandatory annual supervisory and management training; and

(j) Adhering to and implementing the Department's policy on religious accommodations.

§ 7.16 Responsibilities of employees.

All employees of the Department are responsible for:

(a) Being informed as to the Department's EEO/ADR/AE programs;

(b) Adopting an attitude of full acceptance and respect for minorities, females, persons with disabilities, veterans and others of diverse characteristics in the workforce, and support for and participation in ADR;

(c) Providing equality of treatment and service to all persons with whom they come in contact in carrying out their job responsibilities;

(d) Providing assistance to supervisors and managers in carrying out their responsibilities in the EEO/ADR/AE programs; and

(e) Cooperating during EEO investigations and throughout the entire EEO ADR process.

Pre-Complaint Processing

§ 7.25 Pre-complaint processing.

(a) An "aggrieved person" must request counseling in accordance with 29 CFR 1614.105(a). The aggrieved person must initiate contact with an EEO Counselor within 45 days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 days of the effective date of the action. EEOC's regulation at 29 CFR 1614.105 shall govern the Department's pre-complaint processing.

(b) The Department or the EEOC shall extend the 45-day time limit in paragraph (a) of this section when the individual shows that the individual was not notified of the time limits and was not otherwise aware of them, that the individual did not know and reasonably should not have known that the discriminatory matter or personnel action occurred, that despite due diligence the individual was prevented by circumstances beyond the individual's control from contacting the EEO Counselor within the time limits, or for other reasons considered sufficient by the ODEEO or the EEOC.

(c) At the initial counseling session, EEO Counselors must advise individuals, in writing, of their rights and responsibilities, including:

(1) The right to request a hearing and decision from an Administrative Judge of the EEOC or an immediate final decision from the Department following an investigation in accordance with 29 CFR 1614.108(f);

(2) Election rights pursuant to 29 CFR 1614.301 and 29 CFR 1614.302;

(3) The right to file a notice of intent to sue pursuant to 29 CFR 1614.201(a) and a lawsuit under the ADEA instead of an administrative complaint of age discrimination under this subpart;

(4) The duty to mitigate damages;

(5) Relevant time frames; and

(6) The requirement that only the claims raised in pre-complaint counseling (or claims like or related to claims raised in pre-complaint counseling) may be alleged in a subsequent complaint filed with the Department.

§ 7.26 EEO Alternative Dispute Resolution Program.

(a) The aggrieved person may elect to participate in the EEO ADR Program or the traditional EEO counseling procedures. When ADR is chosen, the EEO Counselor shall advise the aggrieved person that if the dispute is resolved during the ADR process, the terms of the agreement must be in writing and signed by both the

aggrieved person and the appropriate Department representative. The Director of EEO will execute ADR settlement agreements that are initiated in the EEO process. The EEO Counselor shall advise the aggrieved person that if no resolution is reached under the EEO ADR Program, or if the matter has not been resolved 90 days from the initial contact with the EEO Office, the aggrieved person will receive a final interview and the notice of right to file a formal complaint shall be issued by the EEO Counselor. Nothing said or done during attempts to resolve the complaint through ADR may be included in any EEO complaint (should ADR be unsuccessful) nor can the ADR proceedings be disclosed.

(b) In appropriate cases (as determined by the Director of EEO on a case-by-case basis), ADR is available during the formal complaint process. Participation in ADR at the formal complaint stage does not affect the normal processing of the formal complaint, including the investigation. Should ADR be initiated at the formal complaint stage, the time period for processing the complaint may be extended by agreement for not more than 90 days. If ADR does not resolve the EEO issue(s), the complaint must be processed within the extended time period agreed upon by the parties, but no later than the 90th day.

Complaints

§ 7.30 Presentation of complaint.

At any stage in the presentation of a complaint, including the counseling stage, the Complainant shall be free from restraint, interference, coercion, discrimination, or reprisal and shall have the right to be accompanied, represented, and advised by a representative of the Complainant's own choosing, except as limited by 29 CFR part 1614.

§ 7.31 Who may file a complaint, with whom filed, and time limits.

(a) *Who may file a complaint.* Any aggrieved person (hereafter, referred to as the Complainant in the formal complaint stage) who has satisfied the requirements of § 7.25 of this part, may file a complaint, unless there is an executed settlement agreement or amended complaint of like or similar issues. The complaint must be filed with the Director of EEO within 15 days of receipt of the notice of right to file a complaint issued by the EEO Counselor. The Department may accept a complaint only if the Complainant has met the appropriate requirements of 29 CFR part 1614.

(b) *Filing and computation of time.* (1) All time periods in this subpart stated in terms of days are calendar days unless otherwise stated.

(2) A document shall be deemed timely if the document is received or postmarked before the expiration of the applicable filing period, or, in the absence of a legible postmark, if the document is received by mail within five days of the expiration of the applicable filing period.

(3) The time limits in this part are subject to waiver, estoppel and equitable tolling.

(4) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included, unless the last day falls on a Saturday, Sunday or Federal holiday, in which case the period shall be extended to include the next business day.

§ 7.32 Representation and official time.

(a) At any stage in the processing of an EEO complaint, including the counseling stage under 29 CFR 1614.105 and during participation in the EEO ADR Program, the Complainant shall have the right to be accompanied, represented, and advised by a representative of Complainant's choice, except as limited by 29 CFR part 1614.

(b) If the Complainant is an employee of the Department, the Complainant shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and to respond to Department and EEOC requests for information if the Complainant is otherwise in active duty status. If the Complainant is an employee of the Department and the Complainant designates another employee of the Department as the Complainant's representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to Department and EEOC requests for information.

(c) The Department is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative or to allow the Complainant and representative to confer. The Complainant and the Complainant's representative, if employed by the Department and otherwise in a pay status, shall be on official time, regardless of their tour of duty, when their presence is authorized or required by the Department or the EEOC during the investigation, informal adjustment, or hearing on the complaint.

(d) In cases where the representation of a Complainant or the Department would conflict with the official or collateral duties of the representative, the EEOC or the Department may, after giving the representative an opportunity to respond, disqualify the representative.

(e) Unless the Complainant states otherwise in writing, after the Department has received written notice of the name, address and telephone number of a representative for the Complainant, all official correspondence shall be with the representative with copies to the Complainant. When the Complainant designates an attorney as representative, service of all official correspondence shall be made on the attorney and the Complainant, but time frames for receipt of materials shall be computed from the time of receipt by the attorney. The Complainant must serve all official correspondence on the designated representative of the Department and shall notify the Department of any changes of the representative and Complainant's address.

(f) The Complainant shall at all times be responsible for proceeding with the complaint and cooperating in the entire EEO complaint process, whether or not the Complainant has designated a representative.

(g) Witnesses who are Federal employees, regardless of their tour of duty and regardless of whether they are employed by the Department or some other Federal agency, shall be in a duty status when their presence is authorized or required by EEOC or Department officials in connection with an EEO complaint.

§ 7.33 Contents of the complaint.

(a) *Information to be included in complaint.* (1) The complaint filed should include the following information:

(i) The specific claim or personnel matter which is alleged to be discriminatory;

(ii) The date the act or matter occurred;

(iii) The protected basis or bases on which the alleged discrimination occurred;

(iv) Facts and other pertinent information to support the claim(s) of discrimination; and

(v) The relief desired.

(2) To expedite the processing of complaints of discrimination, the Complainant may use the HUD EEO–1 Complaint Form to file the complaint.

(b) *Amendments.* (1) A Complainant may amend a complaint at any time prior to the conclusion of the

investigation to include issues or claims like or related to those raised in the complaint. After requesting a hearing, a Complainant may file a motion with the EEOC Administrative Judge to amend a complaint to include issues or claims like or related to those raised in the complaint.

(2) The Department shall acknowledge receipt of a complaint or an amendment to a complaint in writing and inform the Complainant of the date on which the complaint or amendment was filed. The Department shall advise the Complainant in the acknowledgment of the EEOC office and its address where a request for a hearing shall be sent. Such acknowledgment shall also advise the Complainant that:

(i) The Complainant has the right to appeal the dismissal of or final action on a complaint; and

(ii) The Department is required to conduct an impartial and appropriate investigation of the complaint within 180 days of the filing of the complaint unless the parties agree in writing to extend the time period. When a complaint has been amended, the Department shall complete its investigation within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original complaint, except that the Complainant may request a hearing from an EEOC Administrative Judge on the consolidated complaints any time after 180 days from the date of the first filed complaint.

(c) *Joint processing and consolidation.* (1) Complaints of discrimination filed by two or more Complainants consisting of substantially similar allegations of discrimination or relating to the same matter may be consolidated by the Department or the EEOC for joint processing after appropriate notification to the parties.

(2) Two or more complaints of discrimination filed by the same Complainant shall be consolidated by the Department for joint processing after appropriate notification to the Complainant. When a complaint has been consolidated with one or more earlier filed complaints, the Department shall complete its investigation within the earlier of 180 days after the filing of the last complaint or 360 days after the filing of the original complaint, except that the Complainant may request a hearing from an EEOC Administrative Judge on the consolidated complaints any time after 180 days from the date of the first filed complaint.

(3) EEOC Administrative Judges or the EEOC may, in their discretion, consolidate two or more complaints of discrimination filed by the same Complainant.

(d) *Class complaints*—(1) *Definitions.* (i) A class is a group of employees, former employees or applicants for employment who, it is alleged, have been or are being adversely affected by the Department's personnel management policy or practice that discriminates against the group on the basis of their common race, color, religion, sex, national origin, age, disability, or in reprisal for participating in protected EEO activity or for opposing a practice made illegal under the EEO statutes.

(ii) A class complaint is a written complaint of discrimination filed on behalf of a class by the agent of the class that satisfies the requirements of 29 CFR 1614.204.

(2) *Pre-complaint processing.* A current or former employee or applicant who wishes to file a class complaint must be counseled in accordance with 29 CFR 1614.105. A Complainant may move for class certification at any reasonable point in the process when it becomes apparent that there are class implications to the claim raised in an individual complaint. If a Complainant moves for class certification after completing the counseling process in 29 CFR 1614.105, no additional counseling is required. Class certification shall be denied by the EEOC Administrative Judge, when the Complainant has unduly delayed in moving for certification.

(3) *Certification.* Class complaints are certified by an EEOC Administrative Judge in accordance with the provisions of 29 CFR 1614.204.

(e) *Mixed case complaints.*—(1) *Definitions.* A mixed case complaint is a complaint of employment discrimination filed with a Federal agency based on race, color, religion, sex, national origin, age, disability, or in reprisal for participating in protected EEO activity or for opposing a policy or practice made illegal by the EEO statutes, related to or stemming from an action that can be appealed to the Merit Systems Protection Board (MSPB). The complaint may contain only a claim of employment discrimination or the complaint may contain additional claims that the MSPB has jurisdiction to address.

(2) *Election.* An aggrieved person may initially file a mixed case complaint with the Department pursuant to this section or an appeal on the same matter with the MSPB pursuant to 5 CFR 1201.151, but not both. The Department shall inform every employee who is the subject of an action that is appealable to the MSPB and who has either orally or in writing raised the issue of discrimination during the processing of the action of the right to file either a mixed case complaint with the Department or to file a mixed case appeal with the MSPB. If a person files a mixed case appeal with the MSPB instead of a mixed case complaint and the MSPB dismisses the appeal for jurisdictional reasons, the Department shall promptly notify the individual in writing of the right to contact an EEO counselor within 45 days of receipt of this notice and to file an EEO complaint, subject to 29 CFR 1614.107.

(3) *Procedures for agency processing of mixed case complaints.* When a complainant elects to proceed initially under 29 CFR part 1614, subpart C, rather than with the MSPB, the procedures in 29 CFR part 1614, subpart A, shall govern the processing of the mixed case complaint with the following exceptions:

(i) At the time the Department advises a Complainant of the acceptance of a mixed case complaint, the Department shall also advise the Complainant that:

(A) If a final decision is not issued within 120 days of the date of filing of the mixed case complaint, the Complainant may appeal the matter to the MSPB at any time thereafter as specified at 5 CFR 1201.154(b)(2) or may file a civil action as specified at 29 CFR 1614.310(g), but not both; and

(B) If the Complainant is dissatisfied with the Department's final decision on the mixed case complaint, the Complainant may appeal the matter to MSPB (not EEOC) within 30 days of receipt of the Department's final decision;

(ii) Upon completion of the investigation, the notice provided the Complainant in accordance with 29 CFR 1614.108(f) will advise the Complainant that a final decision will be issued within 45 days without a hearing; and

(iii) At the time that the Department issues its final decision on a mixed case complaint, the Department shall advise the Complainant of the right to appeal the matter to the MSPB (not EEOC) within 30 days of receipt and of the right to file a civil action as provided at 29 CFR 1614.310(a).

(4) *Dismissal.* (i) The Department may dismiss a mixed case complaint for the reasons provided in, and under the conditions prescribed in 29 CFR 1614.107. If MSPB's Administrative Judge finds that MSPB does not have jurisdiction over the matter, the Department shall resume processing of the complaint as a non-mixed case EEO complaint.

§ 7.34 Acceptability.

(a) The Director of EEO shall determine whether a complaint comes within the purview of 29 CFR part 1614 and shall advise the Complainant and Complainant's representative, if applicable, in writing of the acceptance or dismissal of the claims(s) of the complaint. The Notice of Receipt is provided to the Complainant, Complainant's representative, if applicable, and to the organizational unit through the appropriate EEO Officer and DCM.

(b) Dismissals of complaints are governed by the notice requirements and procedures in 29 CFR 1614.106(e)(1) and 29 CFR 1614.107.

(c) Prior to a request for a hearing in a case, the Department shall dismiss an entire complaint for any of the reasons provided in 29 CFR 1614.107(a)(1) through (9), including a complaint that alleges dissatisfaction with the processing of a previously filed complaint; or where the Department, strictly applying the criteria in EEOC decisions, finds that the complaint is part of a clear pattern of misuse of the EEO process for a purpose other than the prevention and elimination of employment discrimination. A clear pattern of misuse of the EEO process requires:

(i) Evidence of multiple complaint filings; and

(ii) Claims that are similar or identical, lack specificity or involve matters previously resolved; or

(iii) Evidence of circumventing other administrative processes, retaliating against the Department's in-house administrative processes or overburdening the EEO complaint system.

(d) Where the Director of EEO believes that some, but not all, of the claims in a complaint should be dismissed for the reasons provided in § 7.34 and 29 CFR 1614.107(a)(1) through (9), the Department shall notify the Complainant in writing of its determination, the rationale for that determination and that those claims will not be investigated, and shall place a copy of the notice in the investigative file. A determination under 29 CFR 1614.107(b)(1) that some claims should be dismissed is reviewable by an EEOC Administrative Judge if a hearing is requested on the remainder of the complaint, but is not appealable until final action is taken on the remainder of the complaint.

§ 7.35 Processing.

(a) The Director of EEO will process complaints filed under 29 CFR part 1614 for the Department with the assistance of the EEO Officer, DCM, the EEO Counselor and the full cooperation of all other Department managers, supervisors and other employees.

(b) The Director of EEO shall, in accordance with 29 CFR part 1614, provide for the development of an impartial and appropriate factual record upon which to make findings on the claims raised by the written complaint. An appropriate factual record is one that allows a reasonable fact finder to draw conclusions as to whether discrimination occurred. The person assigned to develop the factual record may use an exchange of letters or memoranda, interrogatories, investigations, fact-finding conferences or any other fact-finding methods that efficiently and thoroughly address the matters at issue and is encouraged, in accordance with 29 CFR 1614.108(b), to incorporate ADR techniques into the investigative efforts in order to promote early resolution of complaints.

(c) The Director of EEO will provide the Complainant and Complainant's representative, if applicable, and the EEO Officer a copy of the record developed. Within 180 days from the filing of the complaint, or where a complaint was amended, within the earlier of 180 days after the last amendment to the complaint or 360 days after the filing of the original complaint, within the time period contained in an order from the Office of Federal Operations on an appeal from a dismissal, or within any period of extension provided for in 29 CFR 1614.108(f), the Department shall provide the Complainant with a copy of the investigative file, and shall notify the Complainant that, within 30 days of receipt of the investigative file, the Complainant has the right to request a hearing and decision from an EEOC Administrative Judge or may request an immediate final decision pursuant to 29 CFR 1614.110 from the Department.

§ 7.36 Hearing.

(a) *Notification of right to request a hearing.* The Director of EEO will notify the Complainant, the General Counsel, EEO Officer, DCM and Complainant's representative, where applicable, of the Complainant's right to request an administrative hearing and decision before the EEOC or the Department's final decision and the time frames for executing the right to request an administrative hearing. Note: Where a mixed case complaint is filed, the Complainant has no right to a hearing before an EEOC Administrative Judge unless the MSPB has dismissed the mixed case complaint or appeal for jurisdictional reasons. (See 29 CFR 1614.302(b).)

(b) *Requesting a hearing.* Where the Complainant has received the notice required in § 7.35(c) above and 29 CFR 1614.108(f) or at any time after 180 days have elapsed from the filing of the complaint, the Complainant may request a hearing by submitting a written request for a hearing directly to the EEOC office indicated in the Department's acknowledgment letter. The Complainant shall send a copy of the request for a hearing to the Department's EEO office. Within 15 days of receipt of a copy of complainant's request for a hearing, or the docketing notice from the EEOC, whichever is earlier, the Director of EEO shall provide a copy of the complaint file to EEOC and, if not previously provided, to the Complainant, Complainant's representative, if applicable, and the appropriate Office of General Counsel.

(c) *EEOC appointment of EEOC Administrative Judge.* When a Complainant requests a hearing, the EEOC shall appoint an EEOC Administrative Judge to conduct a hearing in accordance with this section. Upon appointment, the EEOC Administrative Judge shall assume full responsibility for the adjudication of the complaint, including overseeing the development of the record. Any hearing will be conducted by an EEOC Administrative Judge or hearing examiner with appropriate security clearances.

(d) *Dismissals.* EEOC Administrative Judges may dismiss complaints pursuant to 29 CFR 1614.107, on their own initiative, after notice to the parties, or upon the Department's motion to dismiss a complaint.

(e) *Offer of resolution.* Any time after the filing of the written complaint but not later than the date an EEOC Administrative Judge is appointed to conduct a hearing, the Department may make an offer of resolution to a Complainant who is represented by an attorney.

(1) Any time after the parties have received notice that an EEOC Administrative Judge has been appointed to conduct a hearing, but not later than 30 days prior to the hearing, the Department may make an offer of resolution to the Complainant, whether represented by an attorney or not.

(2) The offer of resolution shall be in writing and shall include a notice explaining the possible consequences of failing to accept the offer. The Department's offer, to be effective, must include attorney's fees and costs and must specify any non-monetary relief.

(3) With regard to monetary relief, the Department may make a lump sum offer covering all forms of monetary liability, or the Department may itemize the amounts and types of monetary relief being offered.

(4) The Complainant shall have 30 days from receipt of the offer of resolution to accept the offer of resolution. If the Complainant fails to accept an offer of resolution and the relief awarded in the EEOC Administrative Judge's decision, the Department's final decision, or the EEOC decision on appeal is not more favorable than the offer, then, except where the interest of justice would not be served, the Complainant shall not receive payment from the Department of attorney's fees or costs incurred after the expiration of the 30-day acceptance period.

(5) An acceptance of an offer must be in writing and will be timely if postmarked or received within the 30-day period. Where a Complainant fails to accept an offer of resolution, the Department may make other offers of resolution and either party may seek to negotiate a settlement of the complaint at any time.

(f) *Orders to produce evidence and failure to comply.* (1) The Complainant, the Department, and any employee of the Department shall produce such documentary and testimonial evidence as the EEOC Administrative Judge deems necessary. The EEOC Administrative Judge shall serve all orders to produce evidence on both parties.

(2) When the Complainant, or the agency against which a complaint is filed, or its employees fail without good cause shown to respond fully and in timely fashion to an order of an EEOC Administrative Judge, or requests for the investigative file, for documents, records, comparative data, statistics, affidavits, or the attendance of witness(es), the EEOC Administrative Judge shall, in appropriate circumstances:

(i) Draw an adverse inference that the requested information, or the testimony of the requested witness, would have reflected unfavorably on the party refusing to provide the requested information;

(ii) Consider the matters to which the requested information or testimony pertains to be established in favor of the opposing party;

(iii) Exclude other evidence offered by the party failing to produce the requested information or witness;

(iv) Issue a decision fully or partially in favor of the opposing party; or

(v) Take such other actions as appropriate.

(g) *Discovery, conduct and record of hearing*—(1) *Discovery.* The EEOC Administrative Judge shall notify the parties of the right to seek discovery prior to the hearing and may issue such discovery orders as are appropriate. Unless the parties agree in writing concerning the methods and scope of discovery, the party seeking discovery shall request authorization from the EEOC Administrative Judge prior to commencing discovery. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the complaint, but the EEOC Administrative Judge may limit the quantity and timing of discovery. Evidence may be developed through interrogatories, depositions, and requests for admissions, stipulations or production of documents. Grounds for objection to producing evidence shall be that the information sought by either party is irrelevant, overburdensome, repetitious, or privileged.

(2) *Conduct of hearing.* The Department shall provide for the attendance at a hearing of all employees approved as witnesses by an EEOC Administrative Judge. Attendance at hearings will be limited to persons determined by the EEOC Administrative Judge to have direct knowledge relating to the complaint. Hearings are part of the investigative process and are thus closed to the public. The EEOC Administrative Judge shall have the power to regulate the conduct of a hearing, limit the number of witnesses where testimony would be repetitious, and exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing. The EEOC Administrative Judge shall receive into evidence information or documents relevant to the complaint. Rules of evidence shall not be applied strictly, but the EEOC Administrative Judge shall exclude irrelevant or repetitious evidence. The EEOC Administrative Judge or the Commission may refer to the Disciplinary Committee of the appropriate Bar Association any attorney or, upon reasonable notice and an opportunity to be heard, suspend or disqualify from representing Complainants or agencies in EEOC hearings any representative who refuses to follow the orders of an EEOC Administrative Judge, or who otherwise engages in improper conduct.

(3) *Record of hearing.* The hearing shall be recorded and the Department shall arrange and pay for verbatim transcripts. All documents submitted to, and accepted by, the EEOC Administrative Judge at the hearing shall be made part of the record of the hearing. If the Department submits a document that is accepted, the Department shall furnish a copy of the document to the Complainant. If the Complainant submits a document that is accepted, the EEOC Administrative Judge shall make the document available to the Department representative for reproduction.

§ 7.37 Final action.

(a) *Department final decision without a hearing.* The Director of EEO shall make the final decision for the Department based on the record developed through the processing of the complaint. The Director of EEO may consult with the General Counsel, the Assistant Secretary of Administration, the Office of Human Resources, the EEO Officer, the DCM, the EEO Counselor, other managers and supervisors, all designees and comparables, and all other persons the Director of EEO deems necessary. The decision, where appropriate, shall include the remedial and corrective action necessary to ensure that the Department is in compliance with the EEO statutes and to promote the Department's policy of equal employment opportunity. When the Department dismisses an entire complaint under 29 CFR 1614.107, receives a request for an immediate final decision or does not receive a reply to the notice issued under 29 CFR 1614.108(f), the Department shall take final action by issuing a final decision. The final decision shall consist of findings by the Department on the merits of each issue in the complaint, or, as appropriate, the rationale for dismissing any claims in the complaint and, when discrimination is found, appropriate remedies and relief in accordance with 29 CFR part 1614, subpart E. The Department shall issue the final decision within 60 days of receiving notification that a Complainant has requested an immediate decision from the Department, or within 60 days of the end of the 30-day period for the Complainant to request a hearing or an immediate final decision where the Complainant has not requested either a hearing or a decision. The final action shall contain notice of the right to appeal the final action to the EEOC, the right to file a civil action in federal district court, the name of the proper defendant in any such lawsuit and the applicable time limits for appeals and lawsuits. A copy of the Notice of Appeal Petition (EEOC Form 573) shall be attached to the final action.

(b) *Department final order after decision by EEOC Administrative Judge.* When an EEOC Administrative Judge has issued a decision under 29 CFR 1614.109(b), (g) or (i), the Department shall take final action on the complaint by issuing a final order within 40 days of receipt of the hearing file and the EEOC Administrative Judge's decision. The final order shall notify the Complainant whether or not the Department will fully implement the decision of the EEOC Administrative Judge and shall contain notice of the Complainant's right to appeal to the EEOC, the right to file a civil action in federal district court, the name of the proper defendant in any such lawsuit and the applicable time limits for appeals and lawsuits. If the final order does not fully implement the decision of the EEOC Administrative Judge, then the Department shall simultaneously file an appeal in accordance with 29 CFR 1614.403 and append a copy of the appeal to the final order. A copy of EEOC Form 573 shall be attached to the final order.

(c) *Decision and final order by EEOC Administrative Judge after hearing.* Unless the EEOC Administrative Judge makes a written determination that good cause exists for extending the time for issuing a decision, an EEOC Administrative Judge shall issue a decision on the complaint, and shall order appropriate remedies and relief where discrimination is found, within 180 days of receipt by the EEOC Administrative Judge of the complaint file from the Department. The EEOC Administrative Judge shall send copies of the hearing record, including the transcript, and the decision to the parties. If the Department does not issue a final order within 40 days of receipt of the EEOC Administrative Judge's decision in accordance with 29 CFR 1614.110, then the decision of the EEOC Administrative Judge shall become the final action of the Department.

(d) *Decision and final order by EEOC Administrative Judge without hearing.* (1) If a party believes that some or all material facts are not in genuine dispute and there is no genuine issue as to credibility, the party may, at least 15 days prior to the date of the hearing or at such earlier time as required by the EEOC Administrative Judge, file a statement with the EEOC Administrative Judge prior to the hearing setting forth the fact or facts and referring to the parts of the record relied on to support the statement. The statement must demonstrate that there is no genuine issue as to any such material fact. The party shall serve the statement on the opposing party.

(2) The opposing party may file an opposition within 15 days of receipt of the statement in 29 CFR 1614.109(g)(1). The opposition may refer to the record in the case to rebut the statement that a fact is not in dispute or may file an affidavit stating that the party cannot, for reasons stated, present facts to oppose the request. After considering the submissions, the EEOC Administrative Judge may order that discovery be permitted on the fact or facts involved, limit the hearing to the issues remaining in dispute, issue a decision without a hearing or make such other ruling as is appropriate.

(3) If the EEOC Administrative Judge determines that some or all facts are not in genuine dispute, the EEOC Administrative Judge may, after giving notice to the parties and providing them an opportunity to respond in writing within 15 days, issue an order limiting the scope of the hearing or issue a decision without holding a hearing.

§ 7.38 Appeals.

(a) *Appeals to the EEOC.* (1) A Complainant may appeal the Department's final action or dismissal of a complaint. The regulations at 29 CFR part 1614, subpart D, govern a Complainant's right of appeal.

(2) The Department may appeal as provided in 29 CFR 1614.110(a).

(3) A class agent or the Department may appeal an EEOC Administrative Judge's decision accepting or dismissing all or part of a class complaint; a class agent may appeal a final decision on a class complaint; a class member may appeal a final decision on a claim for individual relief under a class complaint; and a class member, a class agent or the Department may appeal a final decision on a petition pursuant to 29 CFR 1614.204(g)(4).

(b) *Time limits for appeals to the EEOC.* Appeals described in 29 CFR 1614.401(a) and (c) must be filed within 30 days of Complainant's receipt of the dismissal, final action or decision, or within 30 days of receipt by the attorney of record, if represented. Appeals described in 29 CFR 1614.401(b) must be filed within 40 days of receipt of the hearing file and decision. Where a Complainant has notified the Director of EEO of alleged noncompliance with a settlement agreement in accordance with 29 CFR 1614.504, the Complainant may file an appeal 35 days after service of the allegations of noncompliance, but no later than 30 days after receipt of the Department's determination.

(c) *How to appeal.* (1) The Complainant, the Department, a class agent, grievant or individual class claimant (hereinafter appellant) must file an appeal with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, at PO Box 19848, Washington, DC 20036, or by personal delivery or facsimile. The appellant should use EEOC Form 573, Notice of Appeal/ Petition, and should indicate what is being appealed.

(2) The appellant shall furnish a copy of the appeal to the opposing party at the same time the appeal is filed with the EEOC. In or attached to the appeal to the EEOC, the appellant must certify the date and method by which service was made on the opposing party.

(3) If an appellant does not file an appeal within the time limits of this section, the appeal shall be dismissed by the EEOC as untimely.

(4) Any statement or brief on behalf of a Complainant in support of the appeal must be submitted to the Office of Federal Operations within 30 days of filing the notice of appeal. Any statement or brief on behalf of the Department in support of its appeal must be submitted to the Office of Federal Operations within 20 days of filing the notice of appeal. The Office of Federal Operations will accept statements or briefs in support of an appeal by facsimile transmittal, provided they are no more than 10 pages long.

(5) The Department must submit the complaint file to the Office of Federal Operations within 30 days of initial notification that the Complainant has filed an appeal or within 30 days of submission of an appeal by the Department.

(6) The Department may be represented by the Office of General Counsel in appeals before the Office of Federal Operations.

(7) Any statement or brief in opposition to an appeal must be submitted to the EEOC and served on the opposing party within 30 days of receipt of the statement or brief supporting the appeal, or, if no statement or brief supporting the appeal is filed, within 60 days of receipt of the appeal. The Office of Federal Operations will accept statements or briefs in opposition to an appeal by facsimile provided they are no more than 10 pages long.

(d) *Request for reconsideration.* A decision issued under paragraph (a) of § 1614.405 is final within the meaning of 29 CFR 1614.407 unless the EEOC reconsiders the case. A party may request reconsideration within 30 days of receipt of a decision of the EEOC, which the EEOC in its discretion may grant, if the party demonstrates that:

(1) The appellate decision involved a clearly erroneous interpretation of material fact or law; or

(2) The decision will have a substantial impact on the policies, practices or operations of the Department.

Other Complaint and Appeal Procedures

§ 7.39 Negotiated grievance, MSPB appeal and administrative grievance procedures.

(a) *Negotiated grievance procedure.* An aggrieved person covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure can file a complaint under these procedures or a negotiated grievance, but not both. An election to proceed under this section is indicated only by the filing of a written complaint. An election to proceed under a negotiated grievance procedure is indicated by the filing of a timely grievance. (See 29 CFR 1614.301.)

(b) *MSPB appeal procedure*—(1) *Who can file appeal and when.* An aggrieved person alleging discrimination on basis of race, color, religion, sex, national origin, age or reprisal because of participation in related to or stemming from an action that can be appealed to the MSPB can file a complaint under these procedures, or an appeal with the MSPB, but not both. Whichever is filed first, the complaint or the appeal, is considered an election to proceed in that forum. (See 29 CFR 1614.302 through 29 CFR 1614.309.)

(2) *Right to file civil action about MSPB appeal or decision.* The procedures of this section are governed by 29 CFR 1614.310.

(3) *MSPB appeal rights.* The provisions of 29 CFR part 1614, subpart C, shall govern MSPB appeal rights.

(c) *Administrative grievance procedure*—(1) *Grievance.* A request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction related to employment with the Department and over which the Department has control, including an allegation of coercion, reprisal or retaliation. The range of matters is limited to those for which no other means of administrative review is provided.

(2) *Covered employee.* Any non-bargaining unit employee, including a former employee or applicant for whom a remedy can be provided.

(3) *Responsibilities of participants in the grievance procedure.* Each employee has the responsibility for making a maximum effort to achieve informal settlement of a personal grievance.

(4) *Grievance requirements.* The procedures, responsibilities and processes to be followed by an employee wishing to file an administrative grievance are found in HUD Handbook 771.2 REV–2, Administrative Grievances.

Remedies, Enforcement and Compliance

§ 7.40 Remedies and enforcement.

(a) *Remedies and relief.* When the Department, or the EEOC, in an individual case of discrimination, finds that a current or former employee or applicant has been discriminated against, the Department shall provide full relief in accordance with 29 CFR 1614.501.

(1) *Attorney's fees and costs.* In a decision or final action, the Department, EEOC Administrative Judge or the EEOC may award the applicant or current or former employee reasonable attorney's fees (including expert witness fees) and other costs incurred in the processing of the complaint.

(i) Full relief in Title VII and Rehabilitation Act cases may include compensatory damages, an award of attorney's fees (including expert witness fees) and costs when requested and verified, in accordance with the requirements of 29 CFR 1614.501(e).

(ii) Time period and persons covered. Attorney's fees shall be paid for services performed by an attorney after the filing of a written complaint, provided that the attorney provides reasonable notice of representation to the Department, EEOC Administrative Judge or EEOC, except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the Complainant. The Department is not required to pay attorney's fees for services performed during the pre-complaint process, except that fees are allowable when the EEOC affirms on appeal an EEOC Administrative Judge's decision finding discrimination after the Department takes final action by not implementing an EEOC Administrative Judge's decision or when the parties agree the Department will pay for attorney's fees for pre-complaint representation.

(2) *Notice of representation.* Written submissions to the Department that are signed by the representative shall be deemed to constitute notice of representation.

(3) *Nonattorney fees and costs.* Reporter, witness, printing and other related fees and costs may be awarded, in accordance with 29 CFR 1614.501(e)(1)(iii) and 1614.501(e)(2)(ii)(C).

§ 7.41 Compliance with EEOC final decisions.

(a) Relief ordered in a final EEOC decision is mandatory and binding on the Department except as provided in this section. The Department's failure to implement ordered relief shall be subject to judicial enforcement, as specified in 29 CFR 1614.503(g).

(b) Notwithstanding paragraph (a) of this section, when the Department requests reconsideration and the case involves removal, separation, or suspension continuing beyond the date of the request for reconsideration, and when the decision orders retroactive restoration, the Department shall comply with the decision to the extent of the temporary or conditional restoration of the employee to duty status in the position specified by the EEOC, pending the outcome of the Department's request for reconsideration.

(1) Service under the temporary or conditional restoration provisions of paragraph (b) of this section shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, if the EEOC upholds its decision after reconsideration.

(2) When the Department requests reconsideration, the Department may delay the payment of any amounts ordered to be paid to the Complainant until after the request for reconsideration is resolved. If the Department delays payment of any amount pending the outcome of the request to reconsider and the resolution of the request requires the Department to make the payment, then the Department shall pay interest from the date of the original appellate decision until payment is made.

(3) The Department shall notify the EEOC and the employee in writing at the same time the Department requests reconsideration that the relief the Department provides is temporary or conditional and, if applicable, that the Department will delay the payment of any amounts owed but will pay interest as specified in paragraph (b)(2) of this section. Failure of the Department to provide notification will result in the dismissal of the Department's request.

(4) When no request for reconsideration is filed or when a request for reconsideration is denied, the Department shall provide the relief ordered and there is no further right to delay implementation of the ordered relief. The relief shall be provided in

full not later than 60 days after receipt of the final decision, unless otherwise ordered in the decision.

§ 7.42 Enforcement of EEOC final decisions.

(a) *Petition for enforcement.* A Complainant may petition the EEOC for enforcement of a decision issued under the EEOC's appellate jurisdiction. The petition shall be submitted to the Office of Federal Operations. The petition shall specifically provide the reasons that led the Complainant to believe that the Department is not complying with the decision.

(b) *Referral to the EEOC.* Where the Director, Office of Federal Operations, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the EEOC, or, as directed by the EEOC, refer the matter to another appropriate Department.

(c) *EEOC notice to show cause.* The EEOC may issue a notice to the Secretary that the Department has failed to comply with a decision and to show cause why there is noncompliance. Such notice may request the head of the Department or a representative to appear before the EEOC or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons for non-compliance.

(d) *Notification to complainant of completion of administrative efforts.* Where the EEOC has determined that the Department is not complying with a prior decision, or where the Department has failed or refused to submit any required report of compliance, the EEOC shall notify the Complainant of the right to file a civil action for enforcement of the decision pursuant to title VII, the ADEA, the Equal Pay Act or the Rehabilitation Act and to seek judicial review of the Department's refusal to implement the ordered relief in accordance with the Administrative Procedure Act (5 U.S.C. 701 *et seq.*), and the mandamus statute (28 U.S.C. 1361), or to commence new proceedings in accordance with the appropriate statutes.

§ 7.43 Settlement agreements.

(a) The Department shall make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints, including the pre-complaint counseling stage. These efforts shall include ADR. Any settlement reached shall:

(1) Be in writing;

(2) Identify the claims resolved;

(3) Be signed by both parties and/or their designees; and

(4) Otherwise comply with 29 CFR part 1614.

(b) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. Final action that has not been the subject of an appeal or civil action shall be binding on the Department. If the Complainant believes that the Department has failed to comply with the terms of a settlement agreement or decision, the Complainant shall notify the Director of EEO, in writing, of the alleged noncompliance within 30 days of when the Complainant knew or should have known of the alleged noncompliance. The Complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased.

(c) The Department shall resolve the matter and respond to the Complainant, in writing. If the Department has not responded to the Complainant, in writing, or if the Complainant is not satisfied with the Department's attempt to resolve the matter, the Complainant may appeal to the EEOC for a determination as to whether the Department has complied with the terms of the settlement agreement or final decision. The Complainant may file such an appeal 35 days after the Complainant has served the Department with the allegations of noncompliance, but must file an appeal within 30 days of the Complainant's receipt of the Department's determination. The Complainant must serve a copy of the appeal on the Department and the Department may submit a response to the EEOC within 30 days of receiving notice of the appeal.

§ 7.44 Interim relief.

(a) When the Department appeals and the case involves removal, separation, or suspension continuing beyond the date of the appeal, and when the EEOC Administrative Judge's decision orders retroactive restoration, the Department shall comply with the decision to the extent of the temporary or conditional restoration of the employee to duty status in the position specified in the decision, pending the outcome of the Department appeal. The employee may decline the offer of interim relief.

(b) Service under the temporary or conditional restoration provisions of paragraph (a) of this section shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, if the EEOC upholds the decision on appeal. Such service shall not be credited toward the completion of any applicable probationary or trial period or the completion of the service requirement for career tenure, if the EEOC reverses the decision on appeal.

(c) When the Department appeals, the Department may delay the payment of any amount, other than prospective pay and benefits, ordered to be paid to the Complainant until after the appeal is resolved. If the Department delays payment of any amount pending the outcome of the appeal and the resolution of the appeal requires the Department to make the payment, then the Department shall pay interest from the date of the original decision until payment is made.

(d) The Department shall notify the EEOC and the employee in writing at the same time the Department appeals that the relief the Department provides is temporary or conditional and, if applicable, that the Department will delay the payment of any amounts owed but will pay interest as specified in paragraph (c) of this section. Failure of the Department to provide notification will result in the dismissal of the Department's appeal.

(e) The Department may, by notice to the Complainant, decline to return the Complainant to the Complainant's place of employment if the Department determines that the return or presence of the Complainant will be unduly disruptive to the work environment. However, prospective pay and benefits must be provided. The determination not to return the Complainant to the Complainant's place of employment is not reviewable. A grant of interim relief does not insulate a Complainant from subsequent disciplinary or adverse action.

(f) If the Department files an appeal and has not provided required interim relief, the Complainant may request dismissal of the Department's appeal. Any such request must be filed with the Office of Federal Operations within 25 days of the date of service of the Department's appeal. A copy of the request must be served on the Department at the same time the request is filed with EEOC. The Department may respond with evidence and argument to the Complainant's request to dismiss within 15 days of the date of service of the request.

Statistics and Reporting Requirements

§ 7.45 EEO group statistics and reports.

(a) The Department shall establish a system to collect and maintain accurate employment information on the race, national origin, sex and disability of its employees and applicant flow in accordance with 29 CFR 1614.601 through 29 CFR 1614.602 and the Department shall report to the EEOC on employment by race, national origin, sex and disability, in the form and at such times as the EEOC may require.

(b) The Department shall report to the EEOC information concerning pre-complaint counseling and the status, processing and disposition of complaints under this part, at such times and in such manner as the EEOC prescribes.

(c) The Department shall advise the EEOC whenever the Department is served with a Federal court complaint based upon a complaint that is pending on appeal at the EEOC.

(d) The Department shall submit annual written national equal employment opportunity plans of action for the review and approval of the EEOC. Plans shall be submitted in a format prescribed by the EEOC and in accordance with 29 CFR 1614.602.

Subpart B—[Reserved]

Dated: October 2, 2000.

Andrew Cuomo,

Secretary.

[FR Doc. 00–27470 Filed 10–25–00; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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COMMODITY FUTURES TRADING COMMISSION
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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/index.html. Some laws may not yet be available.

H.R. 2302/P.L. 106–315
To designate the building of the United States Postal Service located at 307 Main Street in Johnson City, New York, as the "James W. McCabe, Sr. Post Office Building". (Oct. 19, 2000; 114 Stat. 1275)

H.R. 2496/P.L. 106–316
To reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994. (Oct. 19, 2000; 114 Stat. 1276)

H.R. 2641/P.L. 106–317
To make technical corrections to title X of the Energy Policy Act of 1992. (Oct. 19, 2000; 114 Stat. 1277)

H.R. 2778/P.L. 106–318
Taunton River Wild and Scenic River Study Act of 2000 (Oct. 19, 2000; 114 Stat. 1278)

H.R. 2833/P.L. 106–319
Yuma Crossing National Heritage Area Act of 2000 (Oct. 19, 2000; 114 Stat. 1280)

H.R. 2938/P.L. 106–320
To designate the facility of the United States Postal Service located at 424 South Michigan Street in South Bend, Indiana, as the "John Brademas Post Office". (Oct. 19, 2000; 114 Stat. 1286)

H.R. 3030/P.L. 106–321
To designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the "Matthew F. McHugh Post Office". (Oct. 19, 2000; 114 Stat. 1287)

H.R. 3454/P.L. 106–322
To designate the United States post office located at 451 College Street in Macon, Georgia, as the "Henry McNeal Turner Post Office". (Oct. 19, 2000; 114 Stat. 1288)

H.R. 3745/P.L. 106–323
Effigy Mounds National Monument Additions Act (Oct. 19, 2000; 114 Stat. 1289)

H.R. 3817/P.L. 106–324
To dedicate the Big South Trail in the Comanche Peak Wilderness Area of Roosevelt National Forest in Colorado to the legacy of Jaryd Atadero. (Oct. 19, 2000; 114 Stat. 1291)

H.R. 3909/P.L. 106–325
To designate the facility of the United States Postal Service located at 4601 South Cottage Grove Avenue in Chicago, Illinois, as the "Henry W. McGee Post Office Building". (Oct. 19, 2000; 114 Stat. 1292)

H.R. 3985/P.L. 106–326
To redesignate the facility of the United States Postal Service located at 14900 Southwest 30th Street in Miramar, Florida, as the "Vicki Coceano Post Office Building". (Oct. 19, 2000; 114 Stat. 1293)

H.R. 4157/P.L. 106–327
To designate the facility of the United States Postal Service located at 600 Lincoln Avenue in Pasadena, California, as the "Matthew 'Mack' Robinson Post Office Building". (Oct. 19, 2000; 114 Stat. 1294)

H.R. 4169/P.L. 106–328
To designate the facility of the United States Postal Service located at 2000 Vassar Street in Reno, Nevada, as the "Barbara F. Vucanovich Post Office Building". (Oct. 19, 2000; 114 Stat. 1295)

H.R. 4226/P.L. 106–329
Black Hills National Forest and Rocky Mountain Research Station Improvement Act (Oct. 19, 2000; 114 Stat. 1296)

H.R. 4285/P.L. 106–330
Texas National Forests Improvement Act of 2000 (Oct. 19, 2000; 114 Stat. 1299)

H.R. 4286/P.L. 106–331
Cahaba River National Wildlife Refuge Establishment Act (Oct. 19, 2000; 114 Stat. 1303)

H.R. 4435/P.L. 106–332
To clarify certain boundaries on the map relating to Unit NC-01 of the Coastal Barrier Resources System. (Oct. 19, 2000; 114 Stat. 1306)

H.R. 4447/P.L. 106–333
To designate the facility of the United States Postal Service located at 919 West 34th Street in Baltimore, Maryland, as the "Samuel H. Lacy, Sr. Post Office Building". (Oct. 19, 2000; 114 Stat. 1307)

H.R. 4448/P.L. 106–334
To designate the facility of the United States Postal Service located at 3500 Dolfield Avenue in Baltimore, Maryland, as the "Judge Robert Bernard Watts, Sr. Post Office Building". (Oct. 19, 2000; 114 Stat. 1308)

H.R. 4449/P.L. 106–335
To designate the facility of the United States Postal Service located at 1908 North Ellamont Street in Baltimore, Maryland, as the "Dr. Flossie McClain Dedmond Post Office Building". (Oct. 19, 2000; 114 Stat. 1309)

H.R. 4484/P.L. 106–336
To designate the facility of the United States Postal Service located at 500 North Washington Street in Rockville, Maryland, as the "Everett Alvarez, Jr. Post Office Building". (Oct. 19, 2000; 114 Stat. 1310)

H.R. 4517/P.L. 106–337
To designate the facility of the United States Postal Service located at 24 Tsienneto Road in Derry, New Hampshire, as the "Alan B. Shepard, Jr. Post Office Building". (Oct. 19, 2000; 114 Stat. 1311)

H.R. 4534/P.L. 106–338
To redesignate the facility of the United States Postal Service located at 114 Ridge Street, N.W. in Lenoir, North Carolina, as the "James T. Broyhill Post Office Building". (Oct. 19, 2000; 114 Stat. 1312)

H.R. 4554/P.L. 106–339
To redesignate the facility of the United States Postal Service located at 1602 Frankford Avenue in Philadelphia, Pennsylvania, as the "Joseph F. Smith Post Office Building". (Oct. 19, 2000; 114 Stat. 1313)

H.R. 4615/P.L. 106–340
To redesignate the facility of the United States Postal Service located at 3030 Meredith Avenue in Omaha, Nebraska, as the "Reverend J.C. Wade Post Office". (Oct. 19, 2000; 114 Stat. 1314)

H.R. 4658/P.L. 106–341
To designate the facility of the United States Postal Service located at 301 Green Street in Fayetteville, North Carolina, as the "J.L. Dawkins Post Office Building". (Oct. 19, 2000; 114 Stat. 1315)

H.R. 4884/P.L. 106–342
To redesignate the facility of the United States Postal Service located at 200 West 2nd Street in Royal Oak, Michigan, as the "William S. Broomfield Post Office Building". (Oct. 19, 2000; 114 Stat. 1316)

S. 1236/P.L. 106–343
To extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho. (Oct. 19, 2000; 114 Stat. 1317)

H.J. Res. 114/P.L. 106–344
Making further continuing appropriations for the fiscal year 2001, and for other purposes. (Oct. 20, 2000; 114 Stat. 1318)

S. 2311/P.L. 106–345
Ryan White CARE Act Amendments of 2000 (Oct. 20, 2000; 114 Stat. 1319)

H.R. 4475/P.L. 106–346
Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes. (Oct. 23, 2000; 114 Stat. 1356)

H.R. 4975/P.L. 106–347
To designate the post office and courthouse located at 2 Federal Square, Newark, New Jersey, as the "Frank R. Lautenberg Post Office and Courthouse". (Oct. 23, 2000; 114 Stat. 1357)

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