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Vol. 63 No. 164

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WASHINGTON, DC

WHEN: September 15, 1998 at 9:00 a.m.
WHERE: Office of the Federal Register
Conference Room,
800 North Capitol Street, N.W.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

NEW YORK CITY

WHEN: September 22, 1998 at 9:00 a.m.
WHERE: National Archives—Northeast Region
201 Varick Street, 12th Floor
New York, New York
RESERVATIONS: 1–800–688–9889 x 0
(Federal Information Center)

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Presidential Documents

Title 3—

The President

Executive Order 13099 of August 20, 1998

Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, in order to take additional steps with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process and the national emergency described and declared in Executive Order 12947 of January 23, 1995, hereby order:

Section 1. The title of the Annex to Executive Order 12947 of January 23, 1995, is revised to read "TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS."

Sec. 2. The Annex to Executive Order 12947 of January 23, 1995, is amended by adding thereto the following persons in appropriate alphabetical order:

Usama bin Muhammad bin Awad bin Ladin (a.k.a. Usama bin Ladin)

Islamic Army (a.k.a. Al-Qaida, Islamic Salvation Foundation, The Islamic Army for the Liberation of the Holy Places, The World Islamic Front for Jihad Against Jews and Crusaders, and The Group for the Preservation of the Holy Sites)

Abu Hafs al-Masri

Rifa'i Ahmad Taha Musa

Sec. 3. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 4. (a) This order is effective at 12:01 a.m., eastern daylight time on August 21, 1998.

(b) This order shall be transmitted to the Congress and published in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
August 20, 1998.

[FR Doc. 98–22940
Filed 8–24–98; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–29–AD; Amendment 39–10717; AD 98–18–01]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B–1, and 214ST Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214B, 214B–1, and 214ST helicopters, that currently establishes a retirement life of 60,000 high-power events for the main rotor trunnion (trunnion). This amendment requires changing the method of calculating the retirement life for the trunnion from high-power events to a maximum accumulated Retirement Index Number (RIN). This amendment is prompted by fatigue analyses and tests that show certain trunnions fail sooner than originally anticipated because of the unanticipated higher number of lifts or takeoffs (torque events) performed with those trunnions. The actions specified by this AD are intended to prevent fatigue failure of the trunnion, which could result in loss of the main rotor and subsequent loss of control of the helicopter.

EFFECTIVE DATE: September 29, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Edmiston, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, Fort Worth, Texas 76193–0170, telephone (817) 222–5158, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–15–14, Amendment 39–8985 (59 FR 40798, August 10, 1994), which is applicable to BHTI Model 214B, 214B–1, and 214ST helicopters, was published in the **Federal Register** on December 12, 1996 (61 FR 65367). That action proposed to require creation of a component history card using the RIN system; a system for tracking increases to the accumulated RIN; and proposed to establish a maximum accumulated RIN for the trunnion of 120,000 at which time the trunnion must be removed from service.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule, with one non-substantive change. The model 214B–1 has been added to paragraph (b)(1) of the AD to explicitly state that the accumulated RIN is calculated the same for both Model 214B and 214B–1 helicopters. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 8 helicopters of U.S. registry will be affected by this AD, that it will take approximately (1) 10 work hours to replace the affected trunnion due to the new method of determining the retirement life required by this AD; (2) 2 work hours per helicopter to create the component history card or equivalent record (record); and (3) 10 work hours per helicopter to maintain the record each year, and that the average labor rate is $60 per work hour. Required parts will cost approximately $11,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $17,360 for the first year and $16,520 for each subsequent year. These costs assume replacement of the trunnion in one helicopter each year, creation and maintenance of the records for all the fleet the first year, and creation of one helicopter's records and maintenance of the records for all the fleet each subsequent year.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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 39–8985 (59 FR 40798, August 10, 1994), and by adding a new airworthiness directive (AD), Amendment 39–10717 to read as follows:

AD 98–18–01 Bell Helicopter Textron, Inc. (BHTI): Amendment 39–10717. Docket No. 94–SW–29–AD. Supersedes AD 94–15–14, Amendment 39–8985, Docket No. 93–SW–20–AD.

Applicability: Model 214B, 214B–1, and 214ST helicopters, with main rotor trunnion (trunnion), part number (P/N) 214–010–230–101, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 25 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously.

To prevent fatigue failure of the trunnion, which could result in loss of the main rotor and subsequent loss of control of the helicopter, accomplish the following:

(a) Create a component history card or an equivalent record for the trunnion, P/N 214–040–230–101.

(b) Determine and record on a component history card or equivalent record the accumulated Retirement Index Number (RIN) to-date on the trunnion by multiplying the accumulated high-power event total to-date by 2 or as follows:

(1) For Model 214B and 214B–1, multiply the flight hour total to-date by 24 (round-up any resulting fraction to the next higher whole number); or

(2) For Model 214ST, multiply the factored flight hour total to-date by 24 (round-up any resulting fraction to the next higher whole number).

Note 2: BHTI Alert Service Bulletin (ASB) No. 214–94–55, which is applicable to Model 214B and 214 B–1 helicopters, and ASB No. 214ST–94–70, which is applicable to Model 214ST helicopters, both dated November 7, 1994, pertain to this AD.

(c) After complying with paragraphs (a) and (b) of this AD, during each operation thereafter, maintain a count of the number and type of external load lifts and the number of takeoffs performed and, at the end of each day's operations, increase the accumulated RIN on the component history card as follows:

(1) For the Model 214B and 214B–1 helicopters,

(i) Increase the RIN by 1 for each takeoff.

(ii) Increase the RIN by 1 for each external load lift operation, or increase the RIN by 2 for each external load lift operation in which the load is picked up at a higher elevation and released at a lower elevation, and the difference in elevation between the pickup point and the release point is 200 feet or greater.

(2) For the Model 214ST helicopters,

(i) Increase the RIN by 2 for each takeoff.

(ii) Increase the RIN by 2 for each external load lift operation, or increase the RIN by 4 for each external load lift operation in which the load is picked up at a higher elevation and released at a lower elevation, and the difference in elevation between the pickup point and the release point is 200 feet or greater.

(d) Remove the trunnion, P/N 214–010–230–101, from service on or before attaining an accumulated RIN of 120,000. The trunnion is no longer retired based upon flight hours. This AD revises the Airworthiness Limitation section of the maintenance manual by establishing a new retirement life for the trunnion of 120,000 RIN.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

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

(g) This amendment becomes effective on September 29, 1998.

Issued in Fort Worth, Texas on August 17, 1998.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–22698 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–18–AD; Amendment 39–10126; AD 97–19–06]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V Helicopters; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the amendment number in airworthiness directive (AD) 97–19–06 that was incorrectly published in the **Federal Register** on September 19, 1997 (62 FR 49132). This AD is applicable to Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V helicopters and requires, before further flight, inspecting certain main rotor blades to determine the anodizing date for certain pocket assemblies installed on the blade, and if a blade has a pocket assembly that was anodized by Poly-Metal Company during the period of October 1, 1996, through December 31, 1996, replacing it with an airworthy blade.

DATES: Effective October 6, 1997.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of October 6, 1997 (62 FR 49132, September 19, 1997).

FOR FURTHER INFORMATION CONTACT: Mr. Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 97–19–06, amendment 39–10126, applicable to Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V helicopters was published in the **Federal Register** on September 19, 1997 (62 FR 49132). That AD requires, before further flight, inspecting certain main rotor blades to determine the anodizing date for certain pocket assemblies installed on the blade, and if a blade has a pocket assembly that was anodized by Poly-Metal Company during the period of October 1, 1996, through December 31, 1996, replacing it with an airworthy blade.

As published, the amendment number given throughout the AD is incorrect.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains October 6, 1997.

In rule FR Doc. 97–24075 published on September 19, 1997 (62 FR 49132), make the following corrections:

§ 39.13 [Corrected]

(1) On page 49132, in the first column, correct "Amendment 39–10026" to read "Amendment 39–10126."

(2) On page 49133, in the first column, paragraph 2., correct the two recitations of "Amendment 39–10026" to read "Amendment 39–10126".

Issued in Fort Worth, Texas, on August 18, 1998.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–22699 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[USCG–1998–4306]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between April 1, 1998 and June 30, 1998, which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones of limited duration and for which timely publication in the **Federal Register** may not have been possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between April 1, 1998 and June 30, 1998, as well as several regulations which were not included in the previous quarterly list.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this preamble will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20593–0001 between 10 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at http://dms.dot.gov, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Lieutenant Junior Grade Mark Cunningham, Office of Regulations and Administrative Law, telephone (202) 267–6233. For questions on viewing, or on submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation (202) 866–9329.

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

The following regulations were placed in effect temporarily during the period April 1, 1998 and June 30, 1998, unless otherwise indicated.

Dated: August 13, 1998.

Michael L. Emge,

Commander, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

QUARTERLY REPORT

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Houston-Galveston 98–006	Trinity Bay, Baytown, TX	Safety zone	5/19/98
Houston-Galveston 98–007	Bayport Ship Channel, Bayport, TX	Safety zone	6/14/98
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Houston-Galveston MSU 98–108	Sureside, TX	Safety zone	4/20/98
LA/Long Beach 98–003	Dana Point, CA	Safety zone	5/3/98
Louisville 98–002	Ohio River, Mead County, KY	Safety zone	4/1/98
Morgan City 98–001	Belle Pass, Fourchon, LA	Safety zone	5/12/98
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	Location	Type	Effective date
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05–98–025	Hampton Roads, Elizabeth River, VA	Security zone	4/3/98
07–98–026	Fort Lauderdale, FL	Special local	4/30/98
07–98–030	Key West, FL	Special local	5/31/98
08–98–016	Arkansas River, M. 308 to M. 309	Special local	5/16/98
08–98–026	Mississippi River, M. 51 to M. 53	Special local	6/12/98
08–98–027	Tennessee River, M. 463.5 to M. 464.5	Special local	6/20/98
09–98–004	Illinois Waterway	Safety zone	4/29/98
09–98–005	Lake Macatawa, Holland, MI	Safety zone	5/8/98
09–98–006	Lake Muskegon, Muskegon, MI	Safety zone	5/9/98
09–98–007	Ludington, MI	Safety zone	5/16/98
09–98–013	Lake Michigan, Muskegon, MI	Safety zone	6/12/98
09–98–014	Black River, South Haven, MI	Safety zone	6/19/98
09–98–015	Lake Macatawa, Holland, Michigan	Safety zone	6/20/98
09–98–09	Little Calumet River	Safety zone	5/19/98
13–98–006	Willamette River, Portland, OR	Safety zone	4/25/98
13–98–007	Willamette River, Portland, OR	Safety zone	5/1/98
13–98–008	Bremerton, WA to Queets, WA	Safety zone	5/23/98
13–98–009	Port of Astoria, Oregon	Safety zone	5/26/98
13–98–010	Willamette River, Portland, OR	Safety zone	5/29/98
13–98–011	Willamette River, Portland, OR	Safety/security zone	6/12/98
13–98–012	Willamette River, Portland, OR	Safety/security zone	6/13/98

[FR Doc. 98–22748 Filed 8–24–98; 8:45 am]
BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–34–3–9819a; FRL–6143–7]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the Georgia State Implementation Plan (SIP). This revision was to incorporate the Post 1996 Rate-of-progress Plan (9 percent plan) submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) on November 15, 1993, and amended on June 17, 1996. Supplemental information was submitted on April 14, 1998. This submittal was made to meet the reasonable further progress requirements of section 182(c)(2) of the Clean Air Act, as amended in 1990 (CAA).

DATES: This direct final rule is effective October 26, 1998 unless adverse or critical comments are received by September 24, 1998. If adverse comment is received, 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 Scott M. Martin, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International

Parkway, Suite 120, Atlanta, Georgia 30354

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. The telephone number is 404/562–9036.

SUPPLEMENTARY INFORMATION:

Background

The Atlanta area was classified as a serious nonattainment area under the ozone National Ambient Air Quality Standards (NAAQS) on November 15, 1990. The nonattainment area consists of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnet, Henry, Paulding, and Rockdale.

Section 182(c)(2) of the CAA requires each serious and above ozone nonattainment area to submit a SIP revision by November 15, 1994, which describes, in part, how the area will achieve an actual volatile organic compound (VOC) emission reduction of at least 3 percent per year averaged over each consecutive 3-year period beginning 6 years after enactment (i.e., November 15, 1996) until the area's attainment date. The attainment date for the Atlanta nonattainment area is November 15, 1999.

Under EPA's Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration (revised February 18, 1995), if Georgia's overall attainment strategy, as defined in the Attainment Demonstration (Urban Airshed Model (UAM) Results) section of this SIP, identifies needed nitrogen oxide (NO_X) controls as well as VOC controls, the 9% Plan can include NO_X reductions to substitute for the required VOC reductions. If the entire 9 percent reduction is to be obtained solely from NO_X reductions, then no VOC reductions are required.

In order to complete the 9 percent plan in accordance with the aforementioned guidance, the Georgia Environmental Protection Division (EPD) inventoried the 1990 NO_X emissions in the non-attainment area as well as the entire UAM domain for attainment modeling purposes, and adjusted the inventory by removing NO_X emission reductions which will be achieved from Federal regulations on motor vehicles in effect prior to the 1990 amendments to the Clean Air Act. The EPD also calculated the 9 percent NO_X reductions required for the plan, estimated growth of NO_X from 1990 to 1999, and then calculated reductions achieved by various NO_X control rules adopted and scheduled for implementation prior to the end of 1996. EPD found these reductions sufficient to reduce overall NO_X emissions by 9% and also to offset all of the projected 1990-to-1999 NO_X growth. The NO_X target level for 1999 is based on the 1990 Rate-of-Progress (ROP) inventory.

The 1990 Final Base Year Inventory is the starting point for calculating the reductions necessary to meet the requirements of the 1990 CAA. The 1990 Final Base Year Inventory includes all area, point, and mobile sources in the UAM domain. From the Final Base Year Inventory, emissions outside the nonattainment area are subtracted to establish the ROP Base Year Inventory. The 1990 Base Year Inventory and the 1990 ROP Inventory have not changed since submittal in November 1994. The ROP inventory is the base inventory from which the 9 percent reduction on existing sources and the reduction from growth by 1999 must be calculated to meet the requirements of the CAA.

1990 Rate-of-Progress Inventory

The ROP inventory is comprised of the anthropogenic stationary (point and area) and mobile sources in the nonattainment area. The 1990 Base Year Ozone Inventory for the Atlanta nonattainment area, submitted November 1993, is available at the Regional address above. Since no VOC emission reductions are required, the inventory information in this notice will not include VOC emissions.

The 1990 ROP NO_X emissions inventory for the Atlanta nonattainment is 538.73 tons/day.

1990 RATE-OF-PROGRESS BASE YEAR INVENTORY

	NO_X tons/day
Point	121.34
Area	25.74
Mobile	304.04
Nonroad	87.61
Total	538.73

Adjusted Base Year Inventory

The development of the Adjusted Base Year Inventory requires that emission reductions that would occur by 1999 as a result of Federal programs already mandated prior to the 1990 Clean Air Act Amendments be excluded from the inventory.

The adjustments exclude emissions reductions that would occur by 1999 as a result of the Federal Motor Vehicle Control Program (FMVCP) promulgated prior to the CAA amendments. As a result of these adjustments, states are not able to take credit for emissions reductions that would have occurred from fleet turnover of current standard cars and trucks, or from previously existing federal fuel regulations.

The 1990 Adjusted Base Year Inventory was prepared using adjustments in the mobile source inventory and calculated with MOBILE5a and Vehicle Miles Traveled (VMT). The 1990 Adjusted Base Year Inventory NO_X emissions are approximately 483.12 tons/day.

1990 ADJUSTED BASE YEAR INVENTORY

	NO_X tons/day
Point	121.34
Area	25.74
Mobile	248.43
Nonroad	87.61
Total	483.12

Creditable 9 Percent Reduction

The adjusted base year inventory is multiplied by 0.09 to calculate the creditable 9 percent reduction needed in tons/day.

	Tons/day
Adjusted Base Year Inventory	483.12
X factor	0.09
Creditable reduction needed	43.48

Post-1996 Target Level of Emissions

To calculate the post-1996 target emissions level, the reductions required to meet the 9 percent reduction requirement and the noncreditable emission reductions discussed above are subtracted from the 1990 ROP inventory.

	Tons/day
1990 NO_X ROP Inventory Level	538.73
Required 9 percent NO_X Reduction	43.48
FMVCP/RVP Reductions 1990/1999	55.61
Target Level for 1999	439.64

1999 Estimated Emissions

The estimated emissions for 1999 were derived using several factors. Area source emissions were estimated by using projection data provided by the Georgia Office of Planning and Budget. Mobile emissions were estimated using MOBILE5a and VMT for 1990 supplied by the Georgia Department of

Transportation to which growth factors supplied by the Atlanta Regional Commission to project 1999 values. Nonroad mobile source emissions were grown, per EPA guidance, at a rate of one percent per year from the 1990 Base Year nonroad mobile inventory. Point source emissions were grown from the 1990 Base Year Emissions Inventory using Bureau of Economic Analysis growth factors.

Further details are available at the Regional address listed above.

1999 ESTIMATED EMISSIONS

	NO_X tons/day
Point	127.36
Area	29.78
Mobile	215.94
Nonroad	97.19
Total	470.27

Control Strategies

Reductions Needed by 1999 to Achieve 9 Percent Reductions

The reductions needed to achieve 9 percent net-of-growth are determined by subtracting the target level emissions from the 1999 estimated emissions, as shown below:

	Tons/day
1999 Estimated Emissions	470.27
Target Level Emissions	439.64
9 percent Net-of-Growth	30.63

In order to meet the 9 percent net-of-growth reduction required by 1999, Georgia must reduce NO_X emissions by 30.63 tons/day. The following is a summary of the reductions Georgia will obtain to meet this requirement.

SUMMARY OF EXPECTED REDUCTIONS

Source type	Expected reductions (NO_X tons/day)
Point	41.20
Area	2.86
Mobile	1.17
Nonroad	4.87
Reductions Demonstrated	50.10
9% Net of Growth	30.63
Excess Reductions	19.47

The projected 1999 emissions have been calculated by applying the control measures discussed below to the 1999 Estimated Emissions. The 1999 Projected Emissions are shown as follows:

1999 PROJECTED EMISSIONS

Point	86.16
Area	26.92
Mobile	214.77
Nonroad	92.32
Total	420.17

The 1999 Projected Emissions of 420.17 tons/day of NO_X are less than the 1999 Target Level Emissions of 439.64 tons/day of NO_X.

Control Measures

The following NO_X emission reductions which have occurred since 1990 are creditable towards the 9 percent plan and will provide reasonable further progress towards attainment.

Point Source Control Measures

Reasonably available control technology (RACT) is required for all major (50 tons/year and more) NO_X sources in the 13 county nonattainment area. RACT for major NO_X sources was not implemented until May 1995, so these reductions are creditable towards the 9 percent plan.

Initial calculations indicate that these NO_X RACT reductions from three Georgia Power facilities result in 41 tons/day of NO_X reductions. Calculations documenting this figure were supplied by the Southern Company on March 27, 1995, and are available at the Regional address listed above. The 41 tons/day of NO_X reductions exceed the total of 30.63 tons/day of the NO_X reductions needed to meet the post 1999 ROP requirements. Calculations documenting these reductions are available at the Regional address listed above.

NO_X RACT Permits Related to 9 Percent ROP

On March 19, 1998, the EPD submitted revisions to NO_X RACT permits for Georgia Power plants McDonough and Yates which are located in the Atlanta nonattainment area. The purpose of these revisions is to establish NO_X emission limits based on a 30 day rolling average during the ozone season. Monitoring, record keeping, and reporting requirements are also established.

The following permit revisions are being approved by EPA and contain the information referenced in the previous paragraph:

Permit 4911–033–5037–0 Plant McDonough conditions 10 through 22
Permit 4911–038–4838–0 Plant Yates conditions 19 through 32
Permit 4911–038–4839–0 Plant Yates conditions 16 through 29
Permit 4911–038–4840–0 Plant Yates conditions 16 through 29
Permit 4911–038–4841–0 Plant Yates conditions 16 through 29

On November 15, 1994, the EPD submitted revisions to NO_X RACT permits for Georgia Power plant Atkinson and Plant McDonough. The purpose of these revisions is to establish NO_X RACT for the sources. Monitoring, record keeping, and reporting requirements are also established.

The following permit revisions are being approved by EPA and contain the information referenced in the previous paragraph:

Permit 4911–033–1321–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–1322–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–6949 Plant Atkinson conditions 5 through 10
Permit 4911–033–1320 Plant Atkinson conditions 8 through 13
Permit 4911–033–1319–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–6951 Plant McDonough conditions 5 through 10

Other NO_X RACT Permits

Permit 4922–028–10902 Atlanta Gas Light Company conditions 20 and 21
Permit 4922–031–10912 Atlanta Gas Light Company conditions 27 and 28
Permit 2631–033–11436 Austell Box Board Corp. conditions 1 through 5
Permit 8922–044–10094 Emory University conditions 19 through 26
Permit 3711–044–11453 General Motors Corporation conditions 1 through 6 and Attachment A
Permit 2077–058–11226 Georgia Proteins Company conditions 16 through 23 and Attachment A
Permit 3221–060–10576 Owens-Brockway Glass Container, Inc. conditions 26 through 28 and Attachment A
Permit 3296–060–10079 Owens-Corning Fiberglass Corporation conditions 25 through 29
Permit 3354–038–6686–0 William L. Bonnell Co. conditions 17 through 30
Permit 4922–075–10217 Transcontinental Gas Pipe Line Corporation conditions 21 through 24
Permit 9711–033–11456 Lockheed-Georgia Company conditions 1 through 11
Permit 3241–060–8670 Blue Circle Incorporated conditions 48 through 54

Area Source Control Measures

Both VOC and NO_X reductions will occur from a ban on open burning and slash/prescribed burning requirements in Georgia Rule 391–3–1–.02(5).

The VOC reductions are presently being relied upon for the 15 percent plan reductions. The NO_X reductions, 1.95 tons/day from open burning and 0.91 tons/day from slash/prescribed burning, are creditable towards the 9 percent plan requirements.

Mobile Source Control Measures

Federal Rules

Additional Federal rules will result in the following reductions:

EPA Detergent Additives Rule (Highway): 2.83 tons/day

Nonroad Mobile Source Control Measures

Federal Rules

Additional Federal rules will result in the following reductions:

EPA Detergent Additives Rule (Nonroad): 0.09 tons/day

EPA Small Nonroad Gasoline Engine Rule: −0.29 tons/day

EPA Small Nonroad Diesel Engine Rule: 5.07 tons/day

Final Action

The EPA approves the revisions to the Georgia SIP to implement the 9 percent plan because they are consistent with Clean Air Act and Agency requirements.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 26, 1998 unless, by September 24, 1998, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a timely withdrawal of the direct final rule. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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. If no such comments are received, the public is advised that this action will be effective October 26, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

The final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks, because it is not an "economically significant" action under Executive Order 12866.

C. Unfunded Mandates

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).

D. Submission to Congress and the General Accounting Office

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to 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 proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action 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.

E. Petitions for Judicial Review

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 3, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *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. et seq.

Subpart L—Georgia

2. Section 52.570, is amended by adding paragraph (c) (49) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(49) Addition of NO_X RACT permits to specify RACT for specific sources, submitted on November 15, 1994, and March 19, 1998.

(i) Incorporation by reference.

(A) The following source specific NO_X RACT permits of the Georgia Department of Natural Resources, Chapter 391–3–1, Air Quality Control, effective on December 27, 1995.

NO_X RACT Permits:

Permit 4911–033–5037–0 Plant McDonough conditions 10 through 22
Permit 4911–038–4838–0 Plant Yates conditions 19 through 32
Permit 4911–038–4839–0 Plant Yates conditions 16 through 29
Permit 4911–038–4840–0 Plant Yates conditions 16 through 29
Permit 4911–038–4841–0 Plant Yates conditions 16 through 29

(B) The following source specific NO_X RACT permits of the Georgia Department of Natural Resources, Chapter 391–3–1, Air Quality Control, effective on November 15, 1994.

NO_x RACT Permits:

Permit 4911–033–1321–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–1322–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–6949 Plant Atkinson conditions 5 through 10
Permit 4911–033–1320–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–1319–0 Plant Atkinson conditions 8 through 13
Permit 4911–033–6951 Plant McDonough conditions 5 through 10
Permit 4922–028–10902 Atlanta Gas Light Company conditions 20 and 21
Permit 4922–031–10912 Atlanta Gas Light Company conditions 27 and 28
Permit 2631–033–11436 Austell Box Board Corp. conditions 1 through 5
Permit 8922–044–10094 Emory University conditions 19 through 26
Permit 3711–044–11453 General Motors Corporation conditions 1 thorough 6 and Attachment A
Permit 2077–058–11226 Georgia Proteins Company conditions 16 through 23 and Attachment A
Permit 3221–060–10576 Owens-Brockway Glass Container, Inc. conditions 26 through 28 and Attachment A
Permit 3296–060–10079 Owens-Corning Fiberglass Corporation conditions 25 through 29
Permit 3354–038–6686–0 William L. Bonnell Co. conditions 17 through 30
Permit 4922–075–10217 Transcontinental Gas Pipe Line Corporation conditions 21 through 24
Permit 9711–033–11456 Lockheed-Georgia Company conditions 1 through 11
Permit 3241–060–8670 Blue Circle Incorporated conditions 48 through 54

(ii) Other material None.

* * * * *

[FR Doc. 98–22650 Filed 8–24–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300696; FRL–6021–6]

RIN 2070–AB78

Zinc Phosphide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay). This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on timothy or timothy-alfalfa, clover stands in Washington. This regulation establishes a maximum permissible level for residues of phosphine in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on February 1, 2000.

DATES: This regulation is effective August 25, 1998. Objections and requests for hearings must be received by EPA on or before October 26, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300696], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300696], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300696]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9364, e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for phosphine resulting from the use of the rodenticide zinc phosphide in or on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay) at 0.1 part per million (ppm). These tolerances will expire and are revoked on February 1, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect

immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

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

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

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Zinc Phosphide on Timothy and Timothy-Alfalfa/Clover and FFDCA Tolerances

A potential population of 500 voles per acre would result in significant economic loss. The currently available methods of control, including the use of zinc phosphide bait boxes and flood irrigation, are inadequate and impractical. EPA has authorized under FIFRA section 18 the use of zinc phosphide on timothy and timothy-alfalfa/clover for control of vole complex in Washington. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of phosphine in or on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay). In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on February 1, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay) after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether zinc phosphide meets EPA's registration requirements for use on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay) or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of zinc phosphide by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Washington to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for zinc phosphide, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered

acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute," "short-term," "intermediate term," and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (children 1-6 years old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of zinc phosphide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for phosphine resulting from the use of the rodenticide zinc phosphide of zinc phosphide on timothy (seed, forage, hay), alfalfa (forage, hay), and clover (forage, hay) at 0.1 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the

sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by zinc phosphide are discussed below.

1. *Acute toxicity.* No toxicology studies were identified by OPP which demonstrated the need for an acute dietary risk assessment.

2. *Short - and intermediate - term toxicity.* Since 10% zinc phosphide tracking powder has been classified in Toxicity Category IV (LC_{50} > 19.6 mg/L), inhalation exposure resulting from this section 18 action is not considered toxicologically significant. For short-term and intermediate dermal MOE calculations, Health Effects Division (HED), OPP recommended use of the adjusted acute dermal LD_{50} NOEL of 1,000 milligrams/kilogram (mg/kg) from the acute dermal toxicity study in rabbits. In the absence of other dermal toxicity data, the acute NOEL dose of 1,000 mg/kg was divided by a 100-fold uncertainty factor to approximate a 3-month dermal NOEL for worker dermal exposure. The 3-month dermal NOEL is 10 mg/kg/day. At the lowest effect level (LEL) of 2,000 mg/kg in the rabbit dermal LD_{50} study, the animals lost weight, but no mortalities were observed up to 5,000 mg/kg highest dose tested (HDT). Actual risk from dermal exposure is likely to be significantly less, since zinc phosphide reacts with water and stomach acid to produce the toxic gas phosphine from oral, but not dermal, exposure.

3. *Chronic toxicity.* EPA has established the RfD for zinc phosphide at 0.003 (mg/kg/day). This RfD is based on an LEL of 3.48 mg/kg/day from an open literature 90-day rat feeding study. Effects observed at the LEL were decreased food consumption and body weight. An uncertainty factor of 10,000 was used due to data gaps and the absence of a NOEL in the study. The Agency has reviewed a 90-day gavage study in rats which had a NOEL of 0.1 mg/kg/day and a LEL of 1.0 mg/kg/day. The LEL of 1.0 mg/kg/day was based on increased mortality and kidney-nephrosis in male rats.

4. *Carcinogenicity.* Zinc phosphide has not been reviewed for carcinogenicity. OPP has waived carcinogenicity data requirements for zinc phosphide on the basis that exposures to zinc phosphide are controlled to prevent exposures to humans. Applications to crop areas are such that the zinc phosphide will dissipate.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.284(a) and (b)) for residues of the phosphine resulting from the use of the rodenticide zinc phosphide in or on a variety of raw agricultural commodities. There is no reasonable expectation of secondary residues in meat, milk, poultry, or eggs (Category 3 of 40 CFR 180.6(a)). Any residues of zinc phosphide ingested by livestock would be metabolized to naturally occurring phosphorous compounds. No human food items are derived from timothy grown for seed or mixed stands of timothy-alfalfa-clover produced for hay. Therefore, humans will receive no additional dietary exposure to phosphine as a result of establishment of these tolerances. Risk assessments were conducted by EPA to assess dietary exposures and risks from zinc phosphide as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure.

ii. *Chronic exposure and risk.* For the purpose of assessing chronic dietary exposure from zinc phosphide, EPA assumed tolerance level residues and 100% of crop treated for the proposed and existing food uses of zinc phosphide. These conservative assumptions result in overestimation of human dietary exposures.

2. *From drinking water.* Zinc phosphide degrades rapidly to Zn2+ and phosphine gas which absorp strongly to soil and are common nutrients in soil. Zinc phosphide and its degradation products appear to have a low potential for ground water and surface water contamination. There is no information on zinc phosphide (phosphine) residues in ground water and runoff in the EFED One-Liner Data Base. There is no established Maximum Concentration Level (MCL) for residues of zinc phosphide (phosphine) in drinking water. No drinking water health advisory levels have been established for zinc phosphide (phosphine). There is no entry for zinc phosphide (phosphine) in the "Pesticides in Groundwater Database" (EPA 734-12-92-001, September 1992). Based on the available studies used in EPA's assessment of environmental risk, EPA does not anticipate exposure to residues of zinc phosphide (phosphine) in drinking water.

3. *From non-dietary exposure.* Zinc phosphide is currently registered for use on the following residential non-food sites: hand-applied bait to underground burrows in/on the following sites/settings: bulb crops, golf course turfgrass, lawns, ornamentals, nurseries, parks, homes, industrial, commercial, and agricultural buildings.

These registrations could result in non-occupational exposure and EPA acknowledges that there may be short-, intermediate-, and long-term non-occupational, non-dietary exposure scenarios. At this time, the Agency has insufficient information to assess the potential risks from such exposure.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other

substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether zinc phosphide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, zinc phosphide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that zinc phosphide has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to zinc phosphide from food will utilize 27.5% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children 1 to 6 years old "discussed below." EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to zinc phosphide from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to zinc phosphide residues.

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

D. Aggregate Cancer Risk for U.S. Population

Zinc phosphide has not been reviewed for carcinogenicity. OPP has waived carcinogenicity data requirements for zinc phosphide on the basis that exposures to zinc phosphide are controlled to prevent exposures to humans. Applications to crop areas are such that the zinc phosphide will dissipate.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—In general.* In assessing the potential for additional sensitivity of infants and children to residues of zinc phosphide, EPA considered data from developmental toxicity studies in the rat and mouse. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

There were no developmental findings in rats up to a maternally toxic dose of 4.0 mg/kg/day zinc phosphide nor in mice at 4.0 mg/kg/day (HDT). A comparison of the NOEL of 0.1 mg/kg/day in the recent 90-day rat gavage study and the NOELs for developmental toxicity in rats and mice (4.0 mg/kg/day) provides a 40-fold difference, which demonstrates that there are no special pre-natal sensitivities for infants and children. OPP has waived teratogenicity in the rabbit and the 2-generation reproduction study in the rat data requirements for zinc phosphide on the basis that exposures to zinc phosphide are controlled to prevent exposures to humans. Applications to crop areas are such that the zinc phosphide will dissipate. Since there are no reproduction studies with zinc phosphide, the post-natal potential for effects from zinc phosphide in infants and children cannot be fully evaluated. However, the above information, together with the uncertainty factor of 10,000 utilized to calculate the RfD for zinc phosphide, is considered adequate protection for infants and children with respect to prenatal and postnatal development against dietary exposure to zinc phosphide residues, and therefore, EPA has determined that an additional 10-fold safety factor is not appropriate.

2. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to zinc phosphide from food will utilize from 6.8% of the RfD for nursing infants (<1 year old) and up to 59.9% children 1 to 6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to zinc phosphide from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to zinc phosphide residues.

V. Other Considerations

A. Metabolism In Plants and Animals

The metabolism of zinc phosphide in plants and animals is adequately understood for the purposes of these tolerances. The residue of concern is unreacted zinc phosphide, measured as phosphine, that may be present.

B. Analytical Enforcement Methodology

Adequate methods for purposes of data collection and enforcement of tolerances for zinc phosphide residues as phosphine gas are available. Methods for determining zinc phosphide residues of as phosphine gas are described in PAM, Vol. II, as Method A.

C. Magnitude of Residues

Residues of phosphine resulting from this use of zinc phosphide in timothy (seed, forage, hay), alfalfa (forage, hay) and clover (forage, hay) will not exceed 0.1 part per million (ppm).

D. International Residue Limits

There are no Codex tolerances for timothy (seed, forage, hay), alfalfa (forage, hay) and clover (forage, hay).

VI. Conclusion

Therefore, these tolerances are established for phosphine resulting from the use of the rodenticide zinc phosphide in timothy (seed, forage,

hay), alfalfa (forage, hay), and clover (forage, hay) at 0.1 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 26, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300696] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use ofspecial characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: August 11, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.284 is revised to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

(a) *General.* Tolerances are established for residues of the phosphine resulting from the use of the rodenticide zinc phosphide in or on the raw agricultural commodities as follows:

Commodity	Parts per million
Grapes	0.01
Grasses (rangeland)	0.1
Sugarcane	0.01

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of phosphine resulting from the use of the rodenticide zinc phosphide in connection with use of the pesticide under FIFRA section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration/ RevocationDate
Alfalfa (forage)	0.1	02/01/00
Alfalfa (hay)	0.1	02/01/00
Clover (forage)	0.1	02/01/00
Clover (hay)	0.1	02/01/00
Timothy (forage)	0.1	02/01/00
Timothy (hay)	0.1	02/01/00
Timothy (seed)	0.1	02/01/00

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n), are established for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on the following raw agricultural commodities as follows:

Commodity	Parts per million
Artichoke (globe)	0.01
Sugar beet (roots)	0.04
Sugar beet (tops)	0.02

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–22787 Filed 8–24–98; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–26, RM–8968, RM–9089, RM–9090; MM Docket No. 97–91, RM–8854, RM–9221]

Radio Broadcasting Services; Detroit, Howe, Jacksboro, Lewisville, Gainesville, Robinson, Corsicana, Mineral Wells TX, Antlers, Hugo, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document consolidates MM Docket No. 97–26 and MM Docket No. 97–91. In doing so, it allots Channel 294C2 to Detroit, Texas, and Channel 222C2 to Antlers, Oklahoma. In addition, this document also substitutes Channel 300C1 for Channel 300C2 at Gainesville, Texas, reallots Channel 300C1 to Lewisville, Texas, and modifies the Station KECS construction permit to specify operation on Channel 300C1 at Lewisville, Texas, and substitutes Channel 300A for Channel 300C1 at Corsicana, Texas, reallots Channel 300A to Robinson, Texas, and modifies the Station KICI license to specify operation on Channel 300A at Robinson, Texas. In order to accommodate these reallotments, this document substitutes Channel 237A for Channel 299A at Jacksboro, Texas, and modifies the construction permit of Station KJKB, Jacksboro, Texas, to specify operation on Channel 237A. *See* 62 FR 4223, January 29, 1997; 62 FR 14091, March 25, 997. The reference coordinates for Channel 294C2 at Detroit, Texas, are 33–49–16 and 95–24–16. The reference coordinates for Channel 222C2 at Antlers, Oklahoma, are 34–12–45 and 95–42–13. The reference coordinates for Channel 300C1 at Lewisville, Texas, are 33–17–33 and 97–13–46. The reference coordinates for Channel 300A at Robinson, Texas, are 31–26–58 and 97–07–27. The reference coordinates for Channel 237A at Jacksboro, Texas, are 33–13–06 and 98–09–48. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 6, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* adopted August 12, 1998, and released August 21, 1998. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 294C2 at Detroit.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Channel 222C2 at Antlers.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 300C2 at Gainesville, and adding Channel 300C1 at Lewisville.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 300C1 at Corsicana, and adding Channel 300A at Robinson.

6. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 299A and adding Channel 237A at Jacksboro.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–22807 Filed 8–24–98; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–200; RM–9144; RM–9313]

Radio Broadcasting Services; Ashton, ID and West Yellowstone, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants allotment proposals in the above-referenced proceeding, in response to a petition for rule making filed by Mountain Tower Broadcasting (Ashton, Idaho, RM–9144), as well as a counterproposal filed on behalf of Alpine Broadcasting Limited Partnership (West Yellowstone, Montana, RM–9313). Channel 243A is allotted to Ashton, Idaho, rather than Channel 224A, as proposed in the *Notice of Proposed Rule Making*, to accommodate the modification of Station KWWF(FM), to specify operation on Channel 225C at West Yellowstone, Montana. *See* 62 FR 49189, September 19, 1997. Coordinates used for Channel 243A at Ashton, Idaho, are 44–04–12 and 111–26–54; coordinates used for Channel 225C at West Yellowstone, Montana, are 44–33–39 and 111–26–24. With this action, the proceeding is terminated.

DATES: Effective October 5, 1998. A filing window for Channel 243A at Ashton, Idaho, will not be opened at this time. Instead, the issue of opening a filing window for Channel 243A will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–200, adopted August 12, 1998, and released August 21, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Ashton, Channel 243A.

3. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 243A and adding Channel 225C at West Yellowstone.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–22809 Filed 8–24–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 98–3781; Notice 2]

RIN 2127–AH26

Schedule of Fees Authorized by 49 U.S.C. 30141

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts fees for Fiscal Year 1999 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS).

NHTSA is reducing the fee for the registration of a new importer from $501 to $491, and increasing the fee for annual renewal of registration from $332 to $350. These fees include the costs of maintaining the registered importer program. The fee required to reimburse the U.S. Customs Service for bond processing costs is increased by $0.25, from $5.15 to $5.40 per bond.

The fee payable for a petition seeking a determination that a nonconforming vehicle is capable of conversion to meet the FMVSS remains at $199 if the petition claims that the nonconforming vehicle is substantially similar to conforming vehicles. With respect to vehicles that have no substantially similar counterpart, the petition fee remains at $721. In addition, the fee payable by the importer of each vehicle that benefits from an eligibility determination is reduced from $134 to $125, regardless of whether the determination is made pursuant to a petition or by NHTSA on its own initiative (this does not apply to vehicles imported from Canada admitted under VSA 80–83).

Finally, the new fee adopted in 1997 under which a registered importer must pay a processing cost of $14 for review of each conformity package that it submits is increased to $16. However, if the HS–7 Declaration form for the vehicle is filed electronically with the U.S. Customs Service though the Automated Broker Interface, and the Registered Importer has an e-mail address and pays by credit card, the fee is reduced to $13 per vehicle.

DATES: The effective date of the final rule is October 1, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, Office of Safety Assurance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Introduction

This notice is based upon a notice of proposed rulemaking published on June 5, 1998, and adopts the fees proposed in the notice (63 FR 30700).

On June 24, 1996, at 61 FR 32411, NHTSA published the latest in a series of notices which discussed in full the rulemaking history of 49 CFR part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, Pub. L. 100–562, since recodified as 49 U.S.C. 30141–47. The reader is referred to that notice and the June 5, 1998, notice for background information relating to this rulemaking action. The fees authorized by the statute were initially established to become effective January 31, 1990, and have been in effect and occasionally modified since then.

The fees applicable in any fiscal year are to be established before the beginning of such year. This document adopts fees that will become effective on October 1, 1998, the beginning of Fiscal Year 1999 (FY99). The statute authorizes fees to cover the costs of the importer registration program, to cover the cost of making import eligibility determinations, and to cover the cost of processing the bonds furnished to the Customs Service. NHTSA last amended the fee schedule in 1996; it has applied in FYs97–98.

As a general statement applicable to consideration of all fees, they are based

on actual time and costs associated with the task, which reflect the slight increase in hourly costs in the past two fiscal years attributable to the approximately 2.3 percent raise in salaries of employees on the General Schedule that became effective on January 1 each year in the years 1997 and 1998, and the combined locality raises of 1.232 percent.

Requirements of the Fee Regulation

Section 594.6—Annual Fee for Administration of the Importer Registration Program

Section 30141(a)(3) of Title 49 U.S.C. provides that registered importers must pay "the annual fee the Secretary of Transportation establishes * * * to pay for the costs of carrying out the registration program for importers* * *." This fee is payable both by new applicants and by registered importers seeking to renew their registration.

In accordance with the statutory directive, NHTSA reviewed the existing fees and their bases in an attempt to establish fees which would be sufficient to recover the costs of carrying out the registration program for importers for at least the next fiscal year. The initial component of the Registration Program Fee is the portion of the fee attributable to processing and acting upon registration applications. The agency determined that this portion of the fee should be decreased from $301 to $290 for new applications, and increased from $132 to $149 for renewals. The higher cost of $290 over $149 for a new application is warranted because the average cost of processing a new application is substantially greater than that of an application for renewal, and the adjustments proposed reflect the agency's recent experience in time spent reviewing both new and renewal applications. These fees have been adopted.

The agency must also recover costs attributable to maintenance of the registration program which arise from the agency's need to review a registrant's annual statement and to verify the continuing validity of information already submitted. These costs also include anticipated costs attributable to possible revocation or suspension of registrations.

Based upon the agency's review of the costs associated with this program, the portion of the fee attributable to the registration program is approximately $201 per registered importer, an increase of $1. When this $201 is added to the $290 representing the registration application component, the cost to an applicant equals $491, which is the fee proposed by NHTSA. It represents a decrease of $10 from the existing fee. When the $201 is added to the $149 representing the renewal component, the cost to a renewing registered importer is $350, which represents an increase of $18. These fees have been adopted.

Sec. 594.6(h) recounts indirect costs that were previously estimated at $7.07 per man-hour. These are now estimated to be $12.12, based on the agency costs discussed above.

Sections 594.7, 594.8—Fees to Cover Agency Costs in Making Importation Eligibility Determinations

Section 30141(a)(3) also requires registered importers to pay "other fees the Secretary of Transportation establishes to pay for the costs of * * * (B) making the decisions under this subchapter." This includes decisions on whether the vehicle sought to be imported is substantially similar to a motor vehicle originally manufactured for import into and sale in the United States, and certified as meeting the FMVSS, and whether it is capable of being readily altered to meet those standards. Alternatively, where there is no substantially similar U.S. motor vehicle, the decision is whether the safety features of the vehicle comply with or are capable of being altered to comply with the FMVSS. These decisions are made in response to petitions submitted by registered importers or manufacturers, or pursuant to the Administrator's initiative.

The fee for a vehicle imported under an eligibility decision made pursuant to a petition is payable in part by the petitioner and in part by other importers. The fee to be charged for each vehicle is the estimated pro rata share of the costs in making all the eligibility determinations in a fiscal year.

Inflation and the small raises under the General Schedule also must be taken into count in the computation of costs. However, NHTSA has been able to reduce its processing costs through combining several decisions in a single **Federal Register** notice as well as achieving efficiencies through improved word processing techniques. Accordingly, NHTSA did not propose a change in the fee of $199 presently required to accompany a "substantially similar" petition, or the fee of $721 for petitions for vehicles that are not substantially similar and that have no certified counterpart. In the event that a petitioner requests an inspection of a vehicle, the fee remains at $550 for each of those types of petitions.

The importer of each vehicle determined to be eligible for importation pursuant to a petition currently must pay $134 upon its importation, the same fee applicable to those whose vehicles covered by an eligibility determination on the agency's initiative (other than vehicles imported from Canada that are covered by code VSA 80–83, for which no eligibility determination fee is assessed). It is proposed that this fee be reduced by $9 to $125 per vehicle, based upon a decrease in administrative costs expended on this aspect of the registered importer program. This reduction has also been adopted.

Section 594.9—Fee to Recover the Costs of Processing the Bond

Section 30141(a)(3) also requires a registered importer to pay "any other fees the Secretary of Transportation establishes * * * to pay for the costs of—(A) processing bonds provided to the Secretary of the Treasury" upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time or if the vehicle is not brought into compliance within such time, that it is exported, without cost to the United States, or abandoned to the United States.

The statute contemplates that NHTSA will make a reasonable determination of the cost to the United States Customs Service of processing the bond. In essence, the cost to Customs is based upon an estimate of the time that a GS 9, Step 5 employee spends on each entry, which Customs judged to be 20 minutes.

Because of the modest salary and locality raises in the General Schedule that were effective at the beginning of 1997 and 1998, NHTSA proposed that the current processing fee be increased by $0.25, from $5.15 per bond to $5.40, and has adopted the proposal.

Section 594.10 Fee for Review and Processing of Conformity Certificate

This is a new fee, adopted pursuant to section 30141(a)(3), which became effective on October 29, 1997. It requires each registered importer to pay $14 per vehicle to cover the cost of the agency's review of any certificate of conformity furnished to the Administrator pursuant to § 591.7(e) (62 FR 50882).

Based upon an analysis of the direct and indirect costs for the review and processing of these certificates in the months since the fee was adopted, NHTSA found that the costs averaged $16 per vehicle and it therefore proposed that the fee be increased by $2, to $16 per certificate. However, if a

registered importer enters a vehicle with the U.S. Customs Service through the Automated Broker Interface, has an e-mail address to receive communications from NHTSA, and pays the fee by credit card, NHTSA has estimated that the reduction in cost to the agency would be approximately $3, and this would be passed on to the Registered Importer by reducing the fee to $13 per vehicle. These fees have been adopted.

The one comment that NHTSA received in response to the proposed notice dealt with the proposed $16 cost per certificate. The North American Automobile Trade Organization asked "whether the $16 fee is based on historical vehicle volumes or current volumes." The Trade Organization believed that "the current volume of vehicles may warrant a reduction (or, alternatively, an increase) in the fee from $16 if it is based on historical importation volumes." The increase in fee was based upon agency experience since adoption of the $14 fee. Thus, it was based on current volumes rather than "historical volumes," which the agency interprets as importations since the beginning of the fee system in 1990.

Effective Date

The fees applicable in any fiscal year are to be established before the beginning of such year. 49 U.S.C. 30141(e). Therefore, the effective date of the final rule establishing fees for FY99 and thereafter is October 1, 1998.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12886. Further, NHTSA has determined that the action is not significant under Department of Transportation regulatory policies and procedures. Based on the level of the fees and the volume of affected vehicles, NHTSA currently anticipates that the costs of the final rule will be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. There is no substantial effect upon State and local governments. There is no substantial impact upon a major transportation safety program. Both the number of registered importers and determinations are estimated to be comparatively small. A regulatory evaluation analyzing the economic impact of the final rule adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this action will not have a substantial economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule would primarily affect entities that currently modify nonconforming vehicles and which are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency has no reason to believe that a substantial number of these companies cannot pay the fees proposed by this action which are only modestly increased (and in some instances decreased) from those now being paid by these entities, and which can be recouped through their customers. The cost to owners or purchasers of altering nonconforming vehicles to conform with the FMVSS may be expected to increase (or decrease) to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of carrying out the registration program and making eligibility decisions, and to compensate Customs for its bond processing costs.

Governmental jurisdictions will not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers will not vary significantly from that existing before promulgation of the rule.

E. Civil Justice

This rule will not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of more than $100 million annually. Because this final rule will not have a $100 million effect, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 594 is amended as follows:

PART 594—SCHEDULE OF FEES AUTHORIZED BY 49 U.S.C. 30141

1. The authority citation for part 594 remains as follows:

Authority: 49 U.S.C. 30141, 30166; delegation of authority at 49 CFR 1.50.

2. Section 594.6 is amended by;

(a) Changing the year "1996" in paragraph (d) to read "1998," and

(b) Revising the introductory language in paragraph (a),

(c) Revising paragraph (b),

(d) Revising paragraph (f)(6),

(e) Revising the final sentence of paragraph (h); and

(f) Revising paragraph (i)

to read as follows:

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered Importer pursuant to part 592 of this chapter on or after October 1, 1998, shall pay an annual fee of $491, as calculated below, based upon the direct and indirect costs attributable to: * * *

* * * * *

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed on and after October 1, 1998, is $290. The sum of $290, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(f) * * *

(6) Verifying through inspection or otherwise that a Registered Importer is

able technically and financially to carry out its responsibilities pursuant to 49 U.S.C. 30118 *et seq.*

* * * * *

(h) * * * This cost is $12.12 per man-hour for the period beginning October 1, 1998.

(i) Based upon the elements, and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration program, covering the period beginning October 1, 1998, is $201. When added to the costs of registration of $290, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are $491. The annual renewal registration fee for the period beginning October 1, 1998, is $350.

* * * * *

3. Section 594.8 is amended by revising the first sentence in paragraph (b) and in paragraph (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(b) If a determination has been made pursuant to a petition, the fee for each vehicle is $125. * * *

(c) If a determination has been made pursuant to the Administrator's initiative, the fee for each vehicle is $125. * * *

4. Section 594.9(c) is revised to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 1998, for which a certificate of conformity is furnished, is $5.40.

5. Section 594.10(d) is revised to read as follows:

§ 594.19 Fee for review and processing of conformity certificate.

* * * * *

(d) The review and processing fee for each certificate of conformity submitted on and after October 1, 1998, is $16. However, if the vehicle covered by the certificate has been entered electronically with the U.S. Customs Service through the Automated Broker Interface and the registered importer submitting the certificate has an e-mail address, the fee for the certificate is $13, provided that the fee is paid by a credit card issued to the registered importer.

Issued on: August 17, 1998.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 98–22447 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235–8028–02; I.D. 081898B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., August 25, 1998, through June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.05 million lb (0.48 million kg) (63 FR 8353, February 19, 1998).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 1.05 million lb (0.48 million kg) for the western zone of the Gulf migratory group of king mackerel will be reached on August 24, 1998. Accordingly, the commercial fishery for Gulf group king mackerel from the western zone is closed effective 12:01 a.m., local time, August 25, 1998, through June 30, 1999, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06" W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king and Spanish mackerel has been issued may fish for king mackerel in the EEZ in the western zone or retain king mackerel in or from the western zone EEZ. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the western zone EEZ under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the western zone taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

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

Dated: August 19, 1998.

Gary C. Matlock,

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

[FR Doc. 98–22769 Filed 8–20–98; 4:05 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 164
Tuesday, August 25, 1998

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models B300 and B300C 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 Raytheon Aircraft Company (Raytheon) Models B300 and B300C airplanes (commonly referred to as Beech Models B300 and B300C airplanes). The proposed action would require modifying the elevator trim tab actuators by incorporating a new elevator trim tab actuator assembly kit, replacing the elevator trim tab pushrod assembly, or modifying the elevator spar opening, whichever is applicable. Reports from operators of ice forming on the elevator trim tab actuators and jamming the trim tab control prompted the proposed action. The actions specified by the proposed AD are intended to prevent jamming of the elevator trim tab actuator caused by ice formations, which could result in loss of control of the airplane.

DATES: Comments must be received on or before October 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–16–AD, Room 1558, 601 E. 12th Street, 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 Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone (800) 625–7043. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Rd., RM 100, Wichita, Kansas 67209; telephone (316) 946–4124; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–16–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has recently received several reports that owners/operators are experiencing difficulty operating the elevator trim tabs in freezing weather conditions on certain Raytheon Models B300 and B300C airplanes. The elevator trim tab actuator spur gears are freezing up and jamming, causing immobilization of the elevator trim tab system. Investigation of the incident reports reveal that the spur gear in the drive mechanism is not breaking up the ice that is collecting in the elevator trim tab actuator. This condition could result in loss of mobility in the elevator trim tab system.

Further analysis shows that a helical gear will allow the ice to be driven or crushed out of the gear mechanism more easily, allowing the elevator trim tab actuator to move more freely during these weather conditions.

Relevant Service Information

Raytheon has issued Mandatory Service Bulletin No. 2620, Issued: November, 1996, which specifies procedures for modifying the elevator trim tab actuator by performing Part I, II, or III of the Accomplishment Instructions.

The modification would be accomplished by either installing a new elevator actuator trim tab assembly kit, installing a push rod assembly, or modifying the elevator spar opening, whichever is applicable. The elevator trim tab actuator assembly kits (Raytheon Service Kit No. 130–5011–3 or No. 130–5011–9, whichever is applicable to the airplane's serial number) provide installation procedures for incorporating the assembly.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent the elevator trim tab actuator from freezing and jamming, which, if not corrected, could cause loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models B300 and B300C airplanes of the same type design, the proposed AD would require modifying the elevator trim tab system. Accomplishment of the proposed AD

would be in accordance with Raytheon Mandatory Service Bulletin No. 2620, Issued: November, 1996, and the elevator trim tab assembly kit installation instructions (Raytheon Service Kit No. 130–5011–3 or No. 130–5011–9, whichever is applicable to the airplane's serial number).

Cost Impact

The FAA estimates that 145 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 30 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $5,000 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $986,000 or $6,800 per airplane.

Raytheon has informed the FAA that parts have been distributed to equip 102 of the affected airplanes.

The FAA would presume that 102 of the 145 airplanes would have already accomplished the proposed action, thereby reducing the number of affected airplanes from 145 to 43 airplanes, which would reduce the total cost impact on the U.S. operators from $986,000, to $292,400.

Regulatory Economic Analysis

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. This Act established "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation". To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a "significant economic impact on a substantial number of small entities." If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis as described in the Act. However, if after a review for a proposed or final rule, an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, Section 605(b) of the Act provides that the head of the agency may so certify and a Regulatory Flexibility Analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA has determined that this proposed airworthiness directive (AD) would not have a significant economic impact on a substantial number of small entities.

Review To Determine the Need for a Regulatory Flexibility Analysis

An examination of the U.S. Registered Aircraft Database indicated that there are 132 Beech B300 and B300C aircraft registered in the United States. Ownership is held by a large number and wide variety of entities, many of them recognizable as major corporations or as financial institutions that are believed to be leasing the aircraft to unnamed entities. Many of the small entities affected by this proposed AD are believed to be in either Standard Industrial Classification (SIC) 4522, "Air Transportation, Nonscheduled" or SIC 4581 "Airports, Flying Fields, and Airport Terminal Services." Under the Small Business Administration (SBA) *Table of Size Standards*, March 1, 1996, an entity in SIC 4522 would be a small entity if it has 1,500 or fewer employees and an entity in SIC 4581 would be a small entity if it has annual sales of $5 million or less. Thus, this proposed AD is believed likely to affect a substantial number of small entities.

The cost that would be incurred in order to bring an airplane into compliance with the proposed AD has been estimated to be approximately $5,000 for parts and 30 hours of labor at $60 per hour for installation, a total of approximately $6,800 per airplane. All these costs are incurred at the time of installation. It is assumed that the modification of the elevator tab actuator mechanism and other associated modifications cause no significant changes in requirements for subsequent inspection and recordkeeping.

It has been estimated that the proposed modification has already been accomplished on the majority of the aircraft covered by this proposed AD and that only 43 airplanes do not have the proposed modification incorporated. This implies that the total cost arising from the proposed AD would be approximately $300,000 ($6,800 × 43 = $292,400).

A responsible range of annualized of costs arising from this proposed AD is suggested in the following table:

Cost of capital (% per yr.)	Remaining life of aircraft (in years)	Annualized cost
10	20	$799
15	20	1,086
10	10	1,107
15	10	1,355

The average annualized cost per airplane is estimated to be in the range of approximately $800 to $1,400 (consistent with 10 to 20 years of remaining life and a cost of capital of 10 to 15 percent per year). Market values for the affected airplanes are believed to be on the order of $2,000,000 or more, with some variation depending on the airplane's age, condition, and installed equipment. Costs for the required modifications would be in the order of one-third of one percent (($6,800/$2,000,000) × 100% = 0.34%) of the market value of an affected airplane.

Annual operating costs are estimated to include about $46,000 for fuel and at least $11,000 for crew. According to the *General Aviation and Air Taxi Activity and Avionics Survey, Calendar Year 1995*, FAA–APO–97–4, these aircraft fly an average of about 270 hours per year (Table 2.2). Average fuel consumption for a two-engine turboprop seating 1 through 12 passengers is about 85 gallons per hour (Table 5.1). Recent prices for Jet A fuel are $2.00 per gallon (at http://www.fillupflyer.com in May 1998). This implies average annual fuel costs of approximately $46,000 (270 hours × 85 gallons/hour × $2/gallon = $45,900). Two crewmembers paid a nominal $20 per hour would cost at least $11,000 (2 × 270 hours × $20 = $10,800). Annualized capital costs for the aircraft would be in the range of $235,000 (capital recovery factor for 20 years at 10% × $2 million = $234,919) to $400,000 (capital recovery factor for 10 years at 15% × $2 million = $398,504). Costs for maintenance, insurance, and parking would further add to the total cost for owning and operating the aircraft, bringing the annual totals to the range of $300,000 to $500,000. In this context, the proposed AD's implied annualized costs in the range of $800 to $1,400 are less than three tenths of one percent of the annualized cost of owning and operating the aircraft, a level that is not believed to have a significant economic impact on the owner/operator of such aircraft.

On the basis of these considerations, the FAA has determined that, although a substantial number of small entities is likely to be affected by this proposed AD, there would not be a significant economic impact on these entities.

Based on the above analysis and findings, the FAA has determined that this proposed AD will not have significant economic impact on a substantial number of small entities.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by Beech Aircraft Corporation): Docket No. 97–CE–16–AD.

Applicability: The following models and serial number (S/N) airplanes, certificated in any category:

Models	Serial Nos.
B300	FL–1 through FL–23, FL–25 through FL134, FL–136, and FL–137.
B300C	FM–1 through FM–9, and FN–1.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 200 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent jamming of the elevator trim tab actuator caused by ice formations, which could cause loss of control of the airplane, accomplish the following:

(a) Modify the elevator trim tab system in accordance with the Installations Instructions in Raytheon Kit Part Number (P/N) 130–5011–3 or Raytheon Kit P/N 130–5011–9, which contain Beech Aircraft Corporation Drawing 130–5011, Revision E, dated March 21, 1996 as referenced in the COMPLIANCE section in the ACCOMPLISHMENT INSTRUCTIONS, PART I, PART II, or PART III (whichever is applicable to the airplane serial number) of Raytheon Mandatory Service Bulletin (MSB) No. 2620, Issued: November, 1996.

Note 2: The MATERIALS section in Raytheon MSB No. 2620, Issued: November, 1996 provides a breakdown of the airplane Models and serial numbers affected by PART I, PART II, or PART III of the ACCOMPLISHMENT INSTRUCTIONS section.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085, or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 18, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–22700 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–83–AD]

RIN 2120–AA64

Airworthiness Directives; HOAC-Austria Model DV 20 Katana Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain HOAC-Austria (HOAC) Model DV 20 airplanes equipped with ROTAX 912 A3 engines. The proposed action would require replacing the engine electronic modules. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Austria. The actions specified by the proposed AD are intended to prevent electromagnetic interference (EMI) on the engine electronic module, which could cause the airplane engine to stop due to the interruption of the airplane's ignition system and result in loss of control of the airplane.

DATES: Comments must be received on or before September 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–83–AD, Room 1558, 601 E. 12th Street, 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 HOAC-Austria, N.A. Otto-StraBe 5, A–2700 Wiener. Neustadt, Austria. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; (816) 426–5688; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–CE–83–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–83–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Austro Control Flugtechnik (Austro Control), which is the airworthiness authority for Austria, recently notified the FAA that an unsafe condition may exist on certain HOAC Model DV 20 Katana airplanes that are equipped with ROTAX 912 A3 series engines. The Austro Control reports that several operators with HOAC DV 20 Katana airplanes have experienced stopped or sputtering engines during flight.

Further investigation shows that the poor engine performance occurs when the airplane is flown within close proximity to short wave radio transmissions, which indicates that electromagnetic interference (EMI) or high power short wave sources could cause an interruption to the engine electronic module and possibly cause uncommanded engine disruption.

These conditions, if not detected and corrected, could result in possible loss of control of the airplane.

Relevant Service Information

Bombardier-ROTAX, the manufacturer of the ROTAX 912–A3 series engine, has issued Technical Bulletin No. 912–08, dated August 16, 1995, which specifies procedures for replacing both electronic ignition modules (part number (P/N) 965 356 or an FAA-approved equivalent part number) with an electronic ignition module of improved design.

The Austro Control classified these service bulletins as mandatory and issued AD No. 84, dated October 4, 1995, in order to assure the continued airworthiness of these airplanes in Austria.

The FAA's Determination

This airplane model is manufactured in Austria and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Austro Control has kept the FAA informed of the situation described above.

The FAA has examined the findings of the Austro Control, reviewed all available information including the service information referenced above, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other HOAC Model DV 20 Katana airplanes of the same type design registered in the United States, the proposed AD would require replacing the electronic ignition module with one of improved design. Accomplishment of the proposed installation would be in accordance with Bombardier-ROTAX Technical Note No. 912–08, dated August 16, 1995.

Cost Impact

The FAA estimates that 20 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $5,600 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $113,200 or $5,660 per airplane.

The manufacturer has informed the FAA that all of the affected airplanes registered in the U.S. have accomplished the proposed action, therefore, the estimated cost impact of the proposed AD on U.S. operators is eliminated.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

HOAC-Austria: Docket No. 97–CE–83–AD.

Applicability: Model DV–20 Katana airplanes, certificated in any category, equipped with ROTAX 912–A3 series engines having serial numbers 4,076.064 through 4,380.753.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent electromagnetic interference (EMI) on the engine electronic module, which could cause the airplane engine to stop due to the interruption of the airplane's ignition system and result in loss of control of the airplane, accomplish the following:

(a) Replace the engine electronic module, part number (P/N) 965 356 or an FAA-approved equivalent part number, with a new engine electronic module, P/N 965 358 in accordance with the Instructions section of the ROTAX Technical Bulletin No. 912–08, dated August 16, 1995.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to HOAC-Austria, N.A. Otto-StraBe 5, A–2700 Wiener. Neustadt, Austria; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Austrian AD No. 84, dated October 4, 1995.

Issued in Kansas City, Missouri, on August 18, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–22701 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 980723191–8191–01]

RIN 0648–AL46

National Marine Sanctuary Program Regulations; Olympic Coast National Marine Sanctuary Regulations; Definition of the Term Seabird

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule; request for comments.

SUMMARY: NOAA is proposing to amend the Olympic Coast National Marine Sanctuary (OCNMS or Sanctuary) regulations by adding a definition for the term seabird. A seabird is proposed to be defined as any member of any species of marine birds that spend part of all of their life cycle (i.e., feeding, resting, migrating, and/or breeding) in or over the Sanctuary. The Sanctuary regulations protect seabirds from takings including harassment, and a definition for the term seabird is needed to clarify that the Sanctuary regulations protect all avian species of the Sanctuary.

DATES: Comments on the proposed rule are invited and will be considered if received by September 24, 1998.

ADDRESSES: All comments should be mailed to: George Galasso, Acting Manager, Olympic Coast National Marine Sanctuary, 138 West 1st Street, Port Angeles, Washington, 98362–2600. All comments received will be available for public inspection at the same address or at the National Marine Sanctuary Program office at 1305 East-West Highway, SSMC4, 11th floor, Silver Spring, Maryland.

FOR FURTHER INFORMATION CONTACT: George Galasso, Acting Manager, Olympic Coast National Marine Sanctuary, 138 West 1st Street, Port Angeles, Washington, 98362–2600; (360) 457–6622.

SUPPLEMENTARY INFORMATION:

I. Background

The regulations of the OCNMS include a prohibition on "[t]aking any marine mammal, sea turtle, or seabird in or above the Sanctuary" (§ 922.152(5)). The term seabird is not defined in the regulations. The Final Environmental Impact Statement (FEIS) for the designation and regulations of the OCNMS at pages II–61 through II–65 discusses in detail seabirds, shorebirds, waterfowl, and birds of prey as Sanctuary resources, all under the heading of "marine birds." Further, the regulations for the Sanctuary define "Sanctuary resource" expressly to include birds. However, the Sanctuary prohibitions refer only to "seabirds." In order to clarify the regulatory intent that the Sanctuary regulations protect all the avain species of the Sanctuary identified in the FEIS, the proposed rule would amend the Sanctuary regulations to define the term seabird as any member of any species of marine birds that spend part or all of their life cycle (i.e., feeding, resting, migrating, and/or breeding) in or over the Olympic Coast National Marine Sanctuary, including but not limited to alcids, tubenoses (e.g., albatrosses and shearwaters) and gulls; shorebirds (e.g., plovers and sandpipers), waterfowl (e.g., ducks and geese) and birds of prey (e.g., bald eagles and peregrine falcons).

II. Miscellaneous Rulemaking Requirements

Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this regulatory action, if adopted as proposed, is not expected to have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would amend the Olympic Coast National Marine Sanctuary (OCNMS or Sanctuary)

regulations to add a definition for the term seabird. The term seabird is used in existing Sanctuary prohibitions against takings (e.g., harassment), however the term is not defined. The Final Environmental Impact Statement (FEIS) for the designation and regulation of the OCNMS at pages II–61 through II–65 discusses in detail seabirds, shorebirds, waterfowl, and birds of prey as Sanctuary resources, all under the heading of "marine birds." Further, the regulations for the Sanctuary define "Sanctuary resource" expressly to include birds. In order to clarify the regulatory intent that the Sanctuary regulations protect all the avian species of the Sanctuary identified in the FEIS, the proposed rule would amend the Sanctuary regulations to define the term seabird as any member of any species of marine birds that spend part or all of their life cycle (i.e., feeding, resting, migrating, and/or breeding) in or over the Olympic Coast National Marine Sanctuary.

The definitional change would have no substantive impact on small businesses. The proposed rule would merely clarify the scope of an existing term, consistent with the FEIS for the Sanctuary, thus providing clear notice of the scope of existing Sanctuary prohibitions.

Accordingly, an Initial Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act and was not prepared.

Paperwork Reduction Act

This amendment of 15 CFR Part 922 would not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, preparation of an environmental impact statement is not required.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Historic preservation, Intergovernmental relations, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: August 14, 1998.

Evelyn J. Fields,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is proposed to be amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart O—Olympic Coast National Marine Sanctuary

2. Section 922.151 is amended by adding the definition of *Seabird* in alphabetical order, to read as follows:

§ 922.151 Definitions.

* * * * *

Seabird means any member of any species of marine birds that spend part or all of their life cycle (i.e., feeding, resting, migrating, and/or breeding) in or over the Olympic Coast National Marine Sanctuary, including but not limited to alcids, tubenoses (e.g., albatrosses and shearwaters) and gulls; shorebirds (e.g., plovers and sandpipers), waterfowl (e.g., ducks and geese) and birds of prey (e.g., bald eagles and peregrine falcons).

* * * * *

[FR Doc. 98–22555 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SPATS No. AL–068–FOR]

Alabama Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Alabama regulatory program (hereinafter the "Alabama program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revisions to and additions of regulations pertaining to definitions, petitions to initiate rulemaking license applications, operation plans, reclamation plans, subsidence control, lands eligible for remining, permit applications, small operator assistance program, performance bond release, hydrologic balance, coal mine waste, backfilling and grading, revegetation, soil removal and stockpiling, inspections, and hearings. The amendment is intended to revise the Alabama program to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Alabama program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., c.d.t., September 24, 1998. If requested, a public hearing on the proposed amendment will be held on September 21, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on September 9, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

Copies of the Alabama program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209.

Alabama Surface Mining Commission, 1811 Second Avenue, P.O. Box 2390, Jasper, Alabama 35502–2390.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet: aabbs@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

On May 20, 1982, the Secretary of the Interior conditionally approved the Alabama program. Background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Subsequent actions

concerning the conditions of approval and program amendments can be found at 30 CFR 901.15 and 901.16.

II. Description of the Proposed Amendment

By letter dated August 4, 1998 (Administrative Record No. AL–0584), Alabama submitted a proposed amendment to its program pursuant to SMCRA. Alabama submitted the amendment in response to a May 20, 1996, letter (Administrative Record No. AL–0555) and a June 17, 1997, letter (Administrative Record No. AL–0568) that OSM sent to Alabama in accordance with 30 CFR 732.17(c) and at its own initiative. Alabama proposes to amend the Alabama Surface Mining Commission (ASMC) Rules. The full text of the proposed program amendment submitted by Alabama is available for public inspection at the locations listed above under **ADDRESSES.** A summary of the proposed amendment is presented below.

1. 880–X–2A–06, Definitions

Alabama is adding a definition of "drinking, domestic or residential water supply" to mean "water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included except to the extent the water supply is for direct human consumption or human sanitation, or domestic use."

Alabama is adding a definition of "lands eligible for remining" to mean "those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977, P.L. 95–87."

Alabama is adding a definition of "material damage" to mean "in the context of 880–X–8I–.20 and 880–X–10D–.58, (a) Any functional impairment of surface lands, features, structures or facilities; (b) Any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or (c) Any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition."

Alabama is adding a definition of "non-commercial building" to mean "any building other than an occupied residential dwelling, that, at the time the subsidence occurs, is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined in this section. Any building used only for commercial agricultural, industrial, retail or other commercial enterprise is excluded."

Alabama is adding a definition of "occupied residential dwelling and structures related thereto" to mean "for purposes of 880–X–8I–.20 and 880–X–10D–.58, any building or other structure that, at the time the subsidence occurs, is used either temporarily, occasionally, seasonally, or permanently for human habitation. This term also includes any building, structure or facility installed on, above or below, or a combination thereof, the land surface if that building, structure of facility is adjunct to or used in connection with an occupied residential dwelling. Examples of such structures include, but are not limited to, garages; storage sheds and barns; greenhouses and related buildings; utilities and cables; fences and other enclosures; retaining walls; paved or improved patios, walks and driveways; septic sewage treatment facilities; and lot drainage and lawn and garden irrigation systems. Any structure used only for commercial agricultural, industrial, retail or other commercial purposes is excluded."

Alabama is revising the definition of "previously mined area" to mean "land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the standards of 30 CFR Chapter VII."

Alabama is adding a definition of "program administrator" to mean "the Alabama Surface Mining Commission's designee who has the authority and responsibility for overall management of the Small Operator's Assistance Program."

Alabama is adding a definition of "qualified laboratory" to mean "a designated public agency, private firm, institution, or analytical laboratory that can provide the required determination of probable hydrologic consequences or statement of results of test borings or core samplings or other services as specified at 880–X–8N–.10 under the Small Operator's Assistance Program and that meets the standards of 880–X–8N–.11."

Alabama is adding a definition of replacement of water supply" to mean "with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operators, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies. (a) Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner, (b) If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner."

Alabama is adding a definition of "siltation structure" to mean a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

Finally, Alabama is adding a definition of "unanticipated event or condition" to mean "as used in 880–X–8K–.10 of this chapter, an event or condition related to prior mining activity which arises from a surface coal mining and reclamation operation on lands eligible for remining and was not contemplated by the applicable permit."

2. 880–X–2A–.08, Petitions To Initiate Rulemaking

At section 880–X–2A–.08(3), Alabama proposes to add the language "once a week" after the phrase "a notice shall be published in a newspaper of general circulation for the State of Alabama." Also, Alabama is revising section 880–X–2A–.08(4) to require that the State Regulatory Authority, within 60 days from the receipt of the petition, either deny a petition in writing on the merits, stating the reasons for denial, or initiate rulemaking proceedings on the petition.

3. 880–X–6A–06, License Application Requirements

At paragraph (d)3., Alabama is correcting the citation reference to 880–X–8K–.11(8).

4. 880–X–8F–.08, Surface Mining and 880–X–8I–.07, Underground Mining; Operations Plan: Permit Map(s)

At paragraph (1)(e), Alabama is removing the language "oil wells, gas wells, water wells"; adding the language "and adjacent areas" after the phrase, "or passing over the proposed permit area"; and adding the language "ponds, springs" after the word "lakes."

At paragraph (1)(l), Alabama is revising the language to require the permit map(s) of an application to show the "location and extent of existing or previously surface mined areas within the proposed permit area."

Finally, at paragraph (1)(o), Alabama is revising the language to read:

Location and dimensions or extent of areas of existing and proposed spoil, waste and non-coal waste disposal, dams embankments, settling ponds, and other impoundments, and water treatment and air pollution control facilities, haul roads, and stockpile areas within the proposed permit area.

5. 880–X–8F–.09, Reclamation Plan: General Requirements

Alabama is adding a second sentence to section 880–X–8F–.09(2)(d) to read as follows:

A demonstration of the suitability of topsoil substitutes or supplements shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The Regulatory Authority may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitutes or supplements.

6. 880–X–8F–.11, Surface Mining and 880–X–8I–.12, Underground Mining; Reclamation Plan; Siltation Structures, Impoundments, Banks, Dams, and Embankments

At paragraph (1), Alabama is removing the language "sedimentation pond" and replacing it with the language "siltation structure."

Alabama is revising paragraph (1)(b) to require that impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210–VI–TR60, Oct. 1985), "Earth Dams and Reservoirs," Technical Release No. 60 (TR–60) comply with the requirements for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration.

Alabama is amending paragraph (1)(c) by replacing the reference to "30 CFR 77.216(a)" with a reference to "paragraph (1)(b)."

Alabama is revising the first sentence of paragraph (2) to require that siltation structures be designed in compliance with the requirements of 880–X–10C–.17 under its surface mining rule and 880–X–10D–.17 under its underground mining rule. The second sentence of this paragraph is being removed.

At paragraph (3)(c), Alabama is removing the language "30 CFR 77.216(a) and located where failure would not be expected to cause loss of life or serious property damage," and replacing it with a reference to "paragraph (1)(b)."

Finally, Alabama is amending paragraph (6) by replacing the language "[I]f the structure is 20 feet or higher or impounds more than 20 acre feet, each plan under Paragraph (2), (3),and (5) of this Section shall include a stability analysis of each structure" with the language "[I]f the structure meets the Class B or C criteria for dams in TR–60 or meets the size or other criteria of 30 CFR 77.216(a), each plan under paragraphs (2), (3), and (5) of this section shall include a stability analysis of the structure."

7. 880–X–8F–.20, Surface Mining and 880–X–8I–.20, Underground Mining Additional Cross Sections, Maps, and Plans

Alabama is adding a new section requiring the inclusion of additional cross sections, maps, and plans in the permit application. At paragraph (1), the cross sections, maps, and plans must show the following information: elevations and locations of test borings and core samplings; elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required; nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of overburden, and the stratum immediately below the lowest coal seam to be mined; all coal crop lines and the strike and dip of the coal to be mined within the proposed permit area; location and extent of subsurface water, if encountered, within the proposed permit or adjacent areas; and location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent area. Paragraph (2) provides that the information required in paragraph (1) may be shown on the permit maps required by 880–X–8F–.08 under its surface mining rules or 880–X–8I–.07 under its underground mining rules.

8. 880–X–8H–.06, Description of Geology and Hydrology and Determination of the Probable Hydrologic Consequence (PHC)

Alabama is requiring the PHC determination to include the following finding at 880–X–8H–.06(1)(e)3.(iv):

Whether the underground mining activities conducted after October 24, 1992, may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas.

9. 880–X–8I.10, Subsidence Control Plan

Alabama is adding new provisions at paragraph (1) to require a pre-subsidence survey in each underground coal mining permit application.

Paragraph (1)(a) requires a map of the permit and adjacent areas showing the location and type of structures and renewable resource lands that subsidence may materially damage or diminish in value. The map must also show the location and type of drinking, domestic, and residential water supplies that could be contaminated, diminished, or interrupted by subsidence.

Paragraph (1)(b) requires a narrative indicating whether subsidence could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands. The narrative must also indicate whether subsidence could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies.

Paragraph (1)(c) requires a survey of the condition of all non-commercial buildings or occupied residential dwellings and associated structures that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw. It also requires a survey of the quantity and quality of all drinking, domestic, and residential water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. If the applicant cannot make these surveys because the owner will not allow access to the site, the applicant will notify the owner, in writing, of the effect that denial of access will have as described in 880–X–10D–.58(3)(d). The applicant must pay for any technical assessment or engineering evaluation used to determine the pre-mining conditions or values of the above buildings, dwellings, structures, or water supplies. The applicant also must provide copies of the surveys and technical assessments or engineering evaluations to the property owners and the Regulatory Authority.

Alabama is amending the existing introductory language of 880–X–8I–.10 and redesignating it as paragraph (2). The first sentence is being removed, and the second sentence is being revised by adding the language "conducted under paragraph (1) of this section" after the word "survey." Existing paragraphs (1) through (8) are being redesignated as paragraphs (2)(a) through (i) with the following changes. New paragraph (2)(g)

requires a description of methods to be employed to minimize damage from planned subsidence to non-commercial buildings and occupied residential dwellings and associated structures or the written consent of the owner of the structure or facility that minimization measures not be taken. This description or written consent may not be needed if the applicant can demonstrate that the costs of minimizing damage exceed the anticipated costs of repair, unless the anticipated damage would constitute a threat to health or safety. Existing paragraph (7) is being redesignated as paragraph (2)(h) and is being amended to require a description of the measures to be taken in accordance with 880–X–10D–.12(10) and 880–X–10D–.58(3) to replace adversely protected water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures.

10. 880–X–8J–.13, Lands Eligible for Remining

Paragraph (1) covers the scope of this new section. This section contains permitting requirements to implement 880–X–8K–.10(2)(d). Persons who submit a permit application to conduct a surface coal mining operation on lands eligible for remining must comply with this section.

Paragraph (2) provides that any application for a permit under this section must be made according to all requirements applicable to surface coal mining and reclamation operations and the additional requirements of paragraphs (2)(a), (b), and (c). Paragraph (2)(a) requires that to the extent not otherwise addressed in the permit application, the applicant is to identify potential environmental and safety problems related to prior mining activity at the site that could be reasonably anticipated to occur. The identification is to be based on an investigation which includes visual observations, a record review of past mining, and environmental sampling. Paragraph (2)(b) requires a description of the mitigative measures that will be taken to ensure the applicable reclamation requirements can be met if potential environmental and safety problems are identified in paragraph (2)(a). Paragraph (2)(c) provides that the requirements of this section shall not apply after September 30, 2004.

11. 880–X–8K.10, Review of Permit Applications

Alabama is adding a new provision at paragraph (2)(d). Paragraph (2)(d)1. provides that subsequent to October 24, 1992, the prohibitions of paragraph (2) shall not apply to any violation that occurs after that date, is unabated, and results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit. The permit must be issued before September 30, 2004, or any renewals thereof, and held by the person making application for the new permit. Paragraph (2)(d)2. provides that for permits issued under 880–X–8J–.13, an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it arose after permit issuance, was related to prior mining, and was not identified in the permit.

Alabama is adding a new provision at paragraph (3)(m) that specifies the permit application requirements for permits issued under 880–X–8J–.13. Paragraph (3)(m)1. requires the permit application to contain lands eligible for remining. Paragraph (3)(m)2. requires the application to contain an identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site. Paragraph (3)(m)3. requires mitigation plans to sufficiently address potential environmental and safety problems so that reclamation can be accomplished.

12. 880–X–8N–.07, Small Operator Assistance Program; Eligibility for Assistance.

Alabama is amending paragraph (c) by removing the existing first sentence and adding the following sentence:

> Establishes that his or her probable total attributed annual production from all locations on which the operator is issued the surface coal mining and reclamation permit will not exceed 300,000 tons.

Alabama is removing the language in existing paragraph (c)1. and is redesignating paragraph (c)2. as paragraph (c)1. with the following changes: the word "beneficial" is removed; the phrase "of the applicant" is added after the word "ownership"; and the percent of ownership is changed to 10 percent.

New paragraph (c)2. provides that production from the pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than 10 percent of the applicant's operation shall be attributed to the permittee.

Alabama is removing existing paragraph (c)3. New paragraph (c)3. provides that production from all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management shall be attributed to the permittee.

Alabama is removing paragraph (c)4. and redesignating paragraph (c)5. as paragraph (c)4.

Alabama is adding a new provision at paragraph (d) to provide that the applicant is eligible for assistance if he is not restricted in any manner from receiving a permit under the permanent regulatory program. Existing paragraph (d) is redesignated as paragraph (e).

13. 880–X–8N–.10, Small Operator Assistance Program; Data Requirements

Alabama is removing the existing requirements under 880–X–8N–.10 and adding new requirements. Paragraph (1) provides that to the extent possible with available funds, the Program Administrator shall select and pay a qualified laboratory to make the determination and statement and provide other services referenced in paragraph (2) of this section for eligible operators who request assistance.

Paragraph (2) requires the Program Administrator to determine the data needed for each applicant or group of applicants. It also requires that the data collected shall be sufficient to satisfy the requirements of paragraphs (2)(a) through (f). Paragraph (2)(a) requires the determination of the probable hydrologic consequences of the surface mining and reclamation operation in the proposed permit area and adjacent areas, including the engineering analyses and designs necessary for the determination in accordance with 880–X–8E–.06(f), 880–X–8H–.06(1)(e) and any other applicable provisions of these regulations. Paragraph (2)(b) requires the drilling and statement of the results of test borings or core samplings for the proposed permit area in accordance with 880–X–8E–.06(2)(b) and 880–X–8H–.06(2)(b) and any other applicable provisions of these regulations. Paragraph (2)(c) requires the development of cross-section maps and plans for the information required by 880–X–8F–.08(e), (l), (m) and (o) and 880–X–8F–.20, or 880–X–8I–.07(e), (l), (m) and (o) and 880–X–8I–.20. Paragraph (2)(d) requires the collection of archaeological and historic information and related plans required by 880–X–8E–.05 and 880–X–8H–.05 and 880–X–8F–.14 and 880–X–8I–.14 and any other archaeological and historic information required by the Regulatory Authority. Paragraph (2)(e) requires pre-blast surveys required by 880–X–10C–.31. Paragraph (2)(f) requires the collection of site-specific resources information, protection and enhancement plans for fish and wildlife habitats required by 880–X–8E–.11 and

880–X–8F–.18, and information and plans for any other environmental values required by the Regulatory Authority.

Paragraph (3) provides that data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.

Paragraph (4) provides that data collected under this program shall be made publicly available in accordance with 880–X–8K–.05(4) and that the Regulatory Authority shall develop procedures for interstate coordination and exchange of data.

14. 880–X–8N–.13, Small Operator Assistance Program; Applicant Liability

Alabama is revising paragraph (1) by requiring the applicant to reimburse the Regulatory Authority for the cost of the services if any of the conditions specified in paragraphs (1)(a) through (f) occur. New paragraph (1)(c) is being added to require reimbursement if the applicant fails to submit a permit application within one year from the date of receipt of the approved laboratory report. Existing paragraphs (1)(c) through (e) are being redesignated as paragraphs (1)(d) through (f). Redesignated paragraph (1)(e) is being revised to require reimbursement if "the Program Administrator finds that the applicant's actual and attributed annual production of coal exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit." Redesignated paragraph (1)(f) is being revised to require reimbursement if "the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed tonnage exceeds the 300,000 annual production limit during the twelve months immediately following the date on which the permit was originally issued."

Alabama is revising paragraph (2) by replacing the language "Regulatory Authority" with the language "Program Administrator."

15. 880–X–9D–.02, Procedures for Seeking Release of Performance Bond

At new paragraph (1)(c), Alabama requires the permittee to include in each application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the Act, the regulatory program, and the approved reclamation plan. Existing paragraph (1)(c) is redesignated as paragraph (1)(d).

16. 880–X–10C–.17, Surface Mining and 880–X–10D–.17, Underground Mining; Hydrologic Balance: Siltation Structures

Alabama is removing and reserving paragraph (1)(a). Alabama further revises paragraph (1)(c) to read as follows:

Other treatment facilities mean any chemical treatments, such as flocculation or neutralization, or mechanical structures, such as clarifiers or precipitators, that have a point source discharge and are utilized: 1. To prevent additional contributions of dissolved or suspended solids to streamflow or runoff outside the permit area, or 2. To comply with all applicable State and Federal water-quality laws and regulations.

Finally, Alabama is revising paragraph (3)(b) to require sedimentation ponds to include either a combination of principal and emergency spillways or a single spillway configured as specified in 880–X–10C–.20(1)(i) for the surface mining rule and 880–X–10D–.20(1)(i) for the underground mining rule. The language found at 880–X–10C–.17(3)(b)1., 2., and 3. and 880–X–10D–.17(3)(b)1., 2., and 3. is removed.

17. 880–X–10C–.20, Surface Mining and 880–X–10D–.20, Underground Mining; Impoundments

Alabama is adding a new paragraph at (1)(a) that requires impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210–VI–TR60, Oct. 1985), "Earth Dams and Reservoirs," 1985 to comply with "Minimum Emergency Spillway Hydrologic Criteria" table in the TR–60 and the requirements of this section.

Existing paragraphs (1)(a) through (1) are redesignated as paragraphs (1)(b) through (m). Paragraph (1)(d)1. is revised by adding the language "the Class B or C criteria for Dams in TR–60, or" after the phrase "[A]n impoundment meeting." Further, the language "or located where failure would be expected to cause loss of life or serious property damage" is removed. Paragraph (1)(d)2. is revised by removing the language "meeting the size or other criteria of 30 CFR 77.216(a)" and replacing it with the phrase "included in paragraph (1)(d)1. of this section." Further, the language "and located where failure would be expected to cause loss of life or serious property damage" is removed.

A second sentence is added at paragraph (1)(e) to require impoundments meeting the Class B or C criteria for dams in TR–60 to comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR–60.

The second sentence of paragraph (1)(f)1. is revised by adding the language "the Class B or C criteria for dams in TR–60, or" after the phrase "[F]or an impoundment meeting."

The following new provision is added at paragraph (1)(i)2.(i):

For an impoundment meeting the Class B or C criteria for dams in the TR–60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR–60, or greater event as specified by the Regulatory Authority.

Existing paragraphs (1)(i)2.(i) and (ii) are redesignated as paragraphs (1)(i)2.(ii) and (iii). At redesignated paragraph (1)(i)2.(iii), the reference to "30 CFR 77.216(a)" is removed and replaced by a reference to "paragraphs (1)(i)2.(i) and (ii) above."

Paragraph (1)(l) is revised to read as follows:

Impoundments meeting the SCS Class B or C criteria for dams in TR–60, or the size or other criteria of 30 CFR 77.216 must be examined in accordance with 30 CFR 77.216–3. Impoundments not meeting the SCS Class B or C criteria for dams in TR–60, or subject to 30 CFR 77.216, shall be examined at least quarterly. A qualified person designated by the operator shall examine impoundments for appearance of structural weakness and other hazardous conditions.

Paragraph (3)(b)1. is revised by adding the language "the SCS Class B or C criteria for dams in TR–60, or" after the phrase "[I]n the case of an impoundment meeting." Finally, paragraph (3)(b)2. is revised by removing the language "meeting the size or other criteria of 30 CFR 77.216(a)" and replacing it with the phrase "included in paragraph (3)(b)1.of this section."

18. 880–X–10C–.38, Surface Mining and 880–X–10D–.34, Underground Mining; Coal Mine Waste: General Requirements

Alabama is revising the second sentence of paragraph (1) to require coal mine waste to be hauled or conveyed and placed for final placement in a controlled manner.

19. 880–X–10C–.54, Backfilling and Grading:Thin Overburden

Alabama is removing the existing requirements and adding the following definition and performance standards for thin overburden:

(1) Definition. Thin overburden means insufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour. Insufficient spoil and other waste materials occur where the overburden thickness times the swell factor, plus the

thickness of other available waste materials, is less than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not: (a) Closely resemble the surface configuration of the land prior to mining, or (b) Blend into and complement the drainage pattern of the surrounding terrain.

(2) Performance standards. Where thin overburden occurs within the permit area, the permittee at a minimum shall: (a) Use all spoil and other waste materials available from the entire permit area to attain the lowest practicable grade, but not more than the angle of response; and (b) Meet the requirements of 880–X–10C–.53(1)(b) through (10).

20. 880–X–10C–.55, Backfilling and Grading: Thick Overburden

Alabama is removing the existing requirements and adding the following definition and performance standards for thick overburden:

(1) Definition. Thick overburden means more than sufficient spoil and other waste materials available from the entire permit area to restore the disturbed area to its approximate original contour. More than sufficient spoil and other waste materials occur where the overburden thickness times the swell factor exceeds the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfilling and grading the surface configuration of the reclaimed area would not: (a) Closely resemble the surface configuration of the land prior to mining; or (b) Blend into and complement the drainage pattern of the surrounding terrain.

(2) Performance standards. Where thick overburden occurs within the permit area, the permittee at a minimum shall: (a) Restore the approximate original contour and then use the remaining spoil and other waste materials to attain the lowest practicable grade, but not more than the angle of repose; (b) Meet the requirements of 880–X10C–.53(1)(b) through (10); and (c) Dispose of any excess spoil in accordance with Rule 880–X–10C–.36.

21. 880–X–10C–.62, Surface Mining and 880–X–10D–.56, Underground Mining; Revegetation; Standards for Success

Alabama is revising Rule 880–X–10C–.62(3) for surface mining and Rule 880–X–10D–.56(3) for underground mining by redesignating the existing language as paragraph (3)(a); amending the existing language by adding the phrase "except as provided in paragraph (3)(b) of this section" after the phrase "for five (5) full years"; and adding the following new provision at paragraph (3)(b):

Two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by paragraph (2)(f) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

22. 880–X–10D–.12, Hydrologic-Balance Protection

Alabama is adding a new provision at paragraph (9) that requires the permittee to promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the permit application for the activities causing the loss, contamination or interruption was received. Alabama will use the baseline hydrologic and geologic information required in 880–X–8E–.06 and 880–X–8H–.06 to determine the impact of mining activities upon the water supply.

23. 880–X–10D–.58, Subsidence Control

Alabama is removing the existing provisions from this section and adding numerous new provisions that pertain to preventing, minimizing, and repairing damage resulting from subsidence.

Paragraph (1) covers measures to prevent or minimize damage. Under this paragraph, the permittee has the alternative of either adopting measures consistent with known technology that prevents subsidence from causing material damage to the extent technologically and economically feasible, or adopting mining technology that provides for planned subsidence in a predictable and controlled manner. If the permittee employs mining technology that provides for planned subsidence, the permittee is required to minimize damage to the extent technologically and economically feasible to noncommercial buildings and occupied residential dwelling and related structures. If the permittee has the written consent of the owners of such structures or facilities, no measures to protect structures and facilities would be required. Unless the anticipated damage would constitute a threat to health or safety, the permittee would not have to minimize material damage if the permittee demonstrates that the cost of minimization would exceed the cost of repair. The permittee also will not be required to take measures to minimize subsidence damage if the surface owner denies the permittee access to the surface.

Paragraph (2) requires the operator to comply with all provisions of the approved subsidence control plan required under 880–X–81–.10.

Paragraph (3) concerns repair of damage. Paragraph (3)(a) requires the permittee to correct any material damage to surface lands resulting from subsidence to the extent technologically and economically feasible. Paragraph (3)(b) requires the permittee to repair or compensate the owner for material damage resulting from subsidence to any non-commercial building or occupied residential dwelling or related structures. Paragraph (3)(c) requires the permittee, to the extent required under State law, to either repair or compensate for material damage resulting from subsidence caused to structures or facilities not protected under paragraph (3)(b). Paragraph (3)(d) provides a rebuttable presumption of causation by subsidence. If damage to non-commercial buildings or occupied residential dwellings and related structures occur as a result of earth movement within the area determined by projecting a specified angle of draw from underground mine workings to the surface, a rebuttable presumption exists that the permittee caused the damage. This presumption will normally apply to a 30-degree angle of draw. Alabama may approve application of the presumption to a site-specific angle of draw under specified conditions. If the permittee is denied access to the land or property for the purpose of conducting the pre-subsidence survey, no rebuttable presumption will exist. Paragraph (3)(e) covers provisions for adjustment of the performance bond amount because of subsidence-related damage. When subsidence-related damage occurs, Alabama must require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs or decrease in value to land, structures or facilities or in the amount of the estimated cost to replace protected water supplies until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is competed within 90 days of occurrence of damage, no additional bond is required. This time may be extended under specified circumstances.

Paragraphs (4), (5), and (6) relate to restrictions placed on underground mining activities. Paragraph (4) provides that underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities; churches, schools, and hospitals; or impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the use of, such features or facilities. Alabama may also limit the percentage

of coal extracted under or adjacent to these features or facilities.

Paragraph (5) provides that if subsidence causes material damage to any of the features or facilities covered by paragraph (4), Alabama may suspend mining under or adjacent to these features or facilities to ensure prevention of further material damage. This suspension would remain in place until the subsidence control plan is modified to ensure prevention of further material damage.

Paragraph (6) requires that if imminent danger is found to inhabitants, Alabama must suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams.

Paragraph (7) requires the operator to submit a detailed plan of the underground workings, including maps and descriptions of significant features of the underground mine. Upon request, information submitted with the detailed plan may be held as confidential under the requirements of 880–X–8K–.05(4).

24. 880–X–10G–.03, Applicability

Alabama is adding a new paragraph (2) to specify that the requirements of this subchapter do not apply to disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland. The operator is required to minimize the area of prime farmland used for underground coal mine waste disposal. Existing paragraph (2) is redesignated as paragraph (3).

25. 880–X–10G–.04, Soil Removal and Stockpiling

Alabama is amending paragraph (3)(b) by adding an exception to the requirement to separately remove the B or C horizon or other suitable soil materials. This exception applies where the B or C soil horizons would not otherwise be removed and where soil capabilities can be retained.

26. 880–X–11B–.02, Inspections

Alabama is revising paragraph (8)(d)1. by removing the language "or permit revocation proceedings have been initiated and are being pursued diligently." Paragraph (8)(d)2. is being revised by replacing the reference to "Alabama Surface Mining Commission" with a reference to "Regulatory Authority."

Alabama is removing the existing language in paragraph (9) and adding the following new language:

(9) In lieu of the inspection frequency established in paragraphs (1) and (2) of this section, the Regulatory Authority shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.

(a) In selecting an alternate inspection frequency authorized under the paragraph above, the Regulatory Authority shall first conduct a complete inspection of the abandoned site and provide public notice under paragraph (9)(b) of this section. Following the inspection and public notice, the Regulatory Authority shall prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

1. How the site meets each of the criteria under the definition of an abandoned site under paragraph (8) of this section and thereby qualifies for a reduction in inspection frequency;

2. Whether, and to what extent, there exist on the site impoundments, earthen structures or other conditions that pose, or may reasonably be expected to ripen into, imminent dangers to the health or safety of the public or significant environmental harms to land, air, or water resources;

3. The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit;

4. The degree to which erosion and sediment control is present and functioning;

5. The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools and other public or commercial buildings and facilities;

6. The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with them; and

7. Based on a review of the complete and partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.

(b) The public notice and opportunity to comment required under paragraph (9)(a) of this section shall be provided as follows:

1. The Regulatory Authority shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a 30-day period in which to submit written comments.

2. The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the bond status of the permit, the telephone number and address of the Regulatory Authority where written comments on the reduced inspection frequency may be submitted, and the closing date of the comment period.

27. 880–X–11D–.11, Request for Hearing

Alabama is revising paragraph (1) to allow the person charged with a violation to contest the proposed penalty or the fact of the violation within 30 days from the date of service of the conference officer's action.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Alabama program.

Written Comments

Written comments should specify, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on September 9, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a pubic meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 14, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–22721 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–122–FOR]

Pennsylvania Regulatory Program

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Pennsylvania Regulatory Program (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. Pennsylvania has submitted both Act 54 and implementing regulations as part of the proposed amendment. This proposal modifies some requirements and adds other requirements to the Bituminous Mine Subsidence and Land Conservation Act (BMSLCA) dealing with mine subsidence control, subsidence damage repair or replacement, and water supply replacement. This amendment is intended to revise the State program to be consistent with SMCRA and the Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.D.T., September 24, 1998. If requested, a public hearing on the proposed amendment will be held on September 21, 1998. Requests to speak at the hearing must be received by 4:00 p.m., E.D.T., on September 9, 1998.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center, 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Room 209 Executive House, 2nd and Chestnut Streets, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments can be found

in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the Pennsylvania program amendments are identified at 30 CFR 938.15.

II. Discussion of the Proposed Amendment

By letter dated July 29, 1998 (Administrative Record No. PA–841.07), the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program pursuant to mine subsidence control, subsidence damage repair or replacement, and water supply replacement provisions of SMCRA. The amendment submission included Act 54 (Pub. L. 357, No.54) and implementing regulations.

Pennsylvania enacted Act 54 on June 22, 1994, which amended the Bituminous Mine Subsidence and Land Conservation Act (BMSLCA). Section 1 of Act 54 amends the title of the BMSLCA to delete the phrase "forbidding damage to specified classes of existing structures from the mining of bituminous coal" from a list of items defining the purposes of the BMSLCA under the heading titled "An Act." The deleted phrase is replaced with language specifying that the BMSLCA will provide for the restoration or replacement of water supplies affected by underground mining and the restoration or replacement or compensation for surface structures damaged by underground mining. Another phrase, "providing for acquisition with compensation of coal support for existing structures not protected by this act, and future structures," under the heading, "An Act", was also deleted. Additional language is added that requires grantors to provide notice of the existence of voluntary agreements for the restoration of water supplies or for repair or compensation for structural damage.

Section 2 of Act 54 changes Section 2 "Purpose," of the BMSLCA by adding language that includes protection of private water supplies, provides for the restoration or replacement of water supplies affected by mining, and provides for the restoration or replacement of or compensation for surface structures damaged by underground mining.

Section 2 of Act 54 also changes Section 3, "Legislative Findings; Declaration of Policy," of the BMSLCA by deleting the phrase, "It is necessary to provide for the protection of those presently existing structures which are or may be damaged due to mine subsidence." Statements were added requiring development of remedies for the restoration and replacement of water supplies affected by underground mining and for restoration or replacement or compensation for surface structures damaged by underground mining.

Section 3 of Act 54 deletes Section 4, "Protection of Surface Structures Against Damage from Cave-In, Collapse or Subsidence," of the BMSLCA.

Section 4 of Act 54 amends Section 5(b) of the BMSLCA by deleting a reference to section 6(b) and replacing it with 6(a) and deleting the phrase, "in accordance with the provisions of section 4."

Section 5 of Act 54 adds Sections 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 to the BMSLCA. Section 5.1 is a new section titled, "Restoration or Replacement of Water Supplies Affected by Underground Mining." This section defines the responsibilities of operators who affect a public or private water supply. Standards for adequacy of the replacement supply are specified and the term "water supply" is defined.

Section 5.2 is a new section titled "Procedures for Securing Restoration or Replacement of Affected Water Supplies; Duties of Department of Environmental Resources." This section defines the procedures for securing restoration or replacement of affected water supplies. PADEP's enforcement responsibilities are defined and the presumption of an operator's responsibility for causing damage to a water supply under certain circumstances is set forth. This section also sets forth defenses available to an operator for relief of liability for affecting a public or private water supply and requires use of a certified laboratory to analyze water samples for premining or post mining surveys. The conditions under which an operator can compensate a landowner for affecting a water supply and the mechanics of compensation are defined. Additionally, the amendment provides that a landowner can request PADEP to review an operator's finding that an affected water supply cannot be restored or that a permanent alternate source cannot be provided.

Section 5.3 is a new section titled "Voluntary Agreement; Restoration or Replacement of Water; Deed Recital." This section provides that a voluntary agreement for restoration or compensation for contamination, diminution, or interruption of an affected water supply between the operator and landowner is not prohibited.

Section 5.4 is a new section titled "Restoration or Compensation for Structures Damaged by Underground Mining." This section sets forth the structures protected under the BMSLCA and limits the operator's responsibilities if denied access to the property with the damaged structures.

Section 5.5 is a new section titled "Procedure for Securing Repair and/or Compensation for Damage to Structures Caused by Underground Mining; Duties of Department of Environmental Resources." This section describes the procedures for securing repair or compensation for damage to structures caused by underground mining and the circumstances under which a landowner may file a claim with PADEP for damage to structures. PADEP's responsibilities for investigating claims are defined. This section also discusses the limits of the operator's liability for repairs or compensation and defines the process an operator or a landowner can use to appeal an order of PADEP. This section provides enforcement procedures for PADEP to use if the operator fails to repair or compensate for subsidence damage within certain time limits. Additionally, this section provides that, except under certain circumstances, PADEP cannot withhold permits or suspend review of permits of an operator against whom claims are filed.

Section 5.6 is a new section titled "Voluntary Agreements for Repair or Compensation for Damages to Structures Caused by Underground Mining; Deed Recital." This section provides that voluntary agreements for repair or compensation for damages to structures caused by underground mining are not prohibited. The effects of deeds, leases and other agreements on the operator's responsibilities under this amendment are also detailed.

Section 6 of Act 54 amends Section 6 "Repair of Damage or Satisfaction of Claims; Revocation or Suspension of Permit; Bond or Collateral," of the BMSLCA. This section deletes subsection (a) in its entirety. The amendment also includes the addition, in subsection (b), of references to Sections 5, 5.4, and 5.6 regarding the operator's responsibility to file a bond.

Section 7 of Act 54 adds Section 9.1 to the BMSLCA. Section 9.1 is a new section titled "Prevention of hazards to human safety and material damage to certain buildings." This section prohibits mining techniques or extraction ratios that will result in subsidence that creates an imminent hazard to human safety. Additionally, this section prohibits underground mining under or adjacent to specific types of structures and buildings.

Section 8 of Act 54 repeals section 15 of the BMSLCA. Section 15 is titled,

"Proceedings for Protection of Surface Structures."

Section 9 of Act 54 amends Section 17.1 of the BMSLCA. Section 17.1, "Unlawful Conduct," is amended to delete the phrase, "to cause land subsidence or injury."

Section 10 of Act 54 adds Section 18.1 to the BMSLCA. Section 18.1 is a new section titled "Compilation and Analysis of Data." This section describes data collection and analysis requirements of PADEP to determine the effects of deep mining on subsidence of surface structures and features and water resources. This section further describes PADEP's reporting procedures and responsibilities.

The additions and changes to regulations proposed by the amendment are described as follows. The amendment will result in changes to the following provisions of the Pennsylvania program: 25 Pa Code 89.5, 25 Pa Code 89.33, 25 Pa Code 89.34, 25 Pa Code 89.35, 25 Pa Code 89.36, 25 Pa Code 89.67, and 25 Pa Code 89.141. The following sections are proposed to be added to the Pennsylvania program: 25 Pa Code 89.142a, 25 Pa Code 89.143a, 25 Pa Code 89.144a, 25 Pa Code 89.145a, 25 Pa Code 89.146a, 25 Pa Code 89.152, 25 Pa Code 89.153, 25 Pa Code 89.154, and 25 Pa Code 89.155. Finally, sections 25 Pa Code 89.142–89.145 are deleted under the proposal. A brief summary of the proposed changes and additions to the Pennsylvania program are found below.

The changes made to 25 Pa Code 89.5 "Definitions," are the additions of definitions for "de minimis cost increase," "dwelling," "fair market value," "irreparable damage," "material damage," "noncommercial building," "permanently affixed appurtenant structures," "public buildings and facilities," "public water supply system," "rebuttable presumption area," "underground mining," "underground mining operations," and "water supply." These definitions are being proposed to clarify various aspects of the changes to other regulations affected by the proposed amendment.

A revision to 25 PA Code 89.33 "Geology," adds coal seam thickness as an information requirement in permit applications.

A revision to 25 PA Code 89.34 "Hydrology," adds the ownership of wells and springs to the list of information that must be provided in the groundwater inventory. Additionally, the term "potentially impacted offsite area" is replaced with the term "adjacent area."

A revision to 25 PA Code 89.35 "Prediction of the hydrologic consequences," requires permit applicants to predict whether underground mining activities may result in contamination, diminution or interruption of water supplies within the permit or adjacent area.

A revision to 25 Pa Code 89.36 "Protection of the hydrologic balance." adds a new subsection (c). This subsection is added to require operators to describe the measures they will use to replace water supplies impacted by the mining operation.

A revision to 25 PA Code 89.67, "Support facilities," clarifies that this section applies to surface sites associated with underground mining activities.

Numerous revisions to 25 PA Code 89.141 "Subsidence control: application requirements," were made. A revision to subsection (a) requires a description of geologic conditions which affect the likelihood or extent of subsidence or subsidence related damage. A revision to subsection (d) clarifies the area which must be covered by the subsidence control plan. Subsection (d)(2) is a new information requirement that requires a description of the potential impacts of subsidence on overlying structures, surface lands and water supplies. A revision to Subsection (d)(3) requires descriptions of the measures to be taken to prevent material damage to, or reduction in, the reasonably foreseeable uses of certain structures and features listed in section 89.142a(c). Subsection (d)(4) requires a description of anticipated effects due to mine subsidence. Subsection (d)(5) requires a general description of the measures a mine operator will take to correct material damage to surface lands if damage occurs as a result of underground mining. Subsection (d)(6) requires a general description of the measures a mine operator will take to prevent irreparable damage to certain structures. Subsection (d)(7) requires a description of any monitoring the mine operator will conduct in conjunction with the subsidence control plan. Subsection (d)(8) requires a description of the measures that will be taken to maximize mine stability, while subsections (d)(9) and (10) require descriptions of the measures that will be taken to protect perennial streams. Subsection (d)(11) is a new section added to require information concerning the construction, use and approximate age of pipelines which will enable PADEP to assess the potential of damage which would result in an imminent hazard to human safety. Subsections (d)(12) and (13) require information relating to subsidence control measures that must be taken to comply with statutes other than the BMSLCA.

25 Pa Code 89.142a is a new section titled, "Subsidence control: performance standards." Subsection (a) sets forth general subsidence control requirements. Subsection (b) is a new requirement which specifies when mine operators will conduct premining surveys, the types of structures subject to the surveys, and the information to be included in the surveys. Subsection (c) is sets forth the special protections afforded to public buildings and facilities, impoundments and certain water bodies. This revision also describes requirements for mining beneath these structures. Subsection (d) prohibits a mine operator from mining in a manner which would cause irreparable damage to dwellings and certain other structures. Subsection (e) revises an existing regulation concerning the repair of damage to surface lands. This subsection requires an operator to correct material damage to surface lands. Subsection (f) sets forth an operator's responsibility to repair or compensate for subsidence damage to certain buildings and structures. Subsection (g) revises an existing regulation concerning protection of utilities. This section describes the methods a mine operator must take to minimize damage, destruction or disruption in services provided by utilities. Subsection (h) is an existing regulation on perennial stream protection which is relocated in this rulemaking. This subsection requires mine operators to take measures to maintain the value and reasonably foreseeable uses of perennial streams and to restore to the extent technologically and economically feasible restoration of streams adversely impacted by mining. Subsection (i) requires PADEP to suspend underground mining beneath certain areas to prevent hazards to human safety. Subsection (j) is an existing regulation that has been relocated. This subsection prohibits mining in an area that is not covered by an approved subsidence plan. Subsection (k) is a new performance standard that will require mine operators to report mine subsidence damage claims to PADEP. Subsection (l) is an advisory statement that clarifies that PADEP does not have the authority to resolve property rights disputes.

25 PA Code 89.143a "Subsidence control: procedure for resolution of subsidence damage claims," is a new section that describes the responsibilities of all parties in resolving claims of mine subsidence damage.

25 PA Code 89.144a "Subsidence control: relief from responsibility," is a new section that describes the conditions under which an operator may be relieved of the responsibility to repair or compensate for damage to a structure.

25 PA Code 89.145a "Water supply replacement: performance standards," is a new section that pertains to the restoration or replacement of water supplies contaminated, diminished or interrupted by underground mining. Subsection (a) requires mine operators to conduct premining surveys of certain water supplies. Subsection (b) sets forth a mine operator's basic responsibility to restore or replace a water supply that has been contaminated, diminished or interrupted by underground mining activities. Subsection (c) requires a mine operator to notify PADEP within 24 hours of receiving a complaint the a water supply has been affected. Subsection (d) repeats the statutory requirement to investigate all complaints of water supply contamination, diminution or interruption. Subsection (e) sets forth the requirement to provide a temporary water supply when a water supply has been impacted by underground mining within the rebuttable presumption zone. Subsection (f) sets forth the requirements for determining the adequacy of a permanently restored or replacement water supply.

25 PA Code 89.146a "Water supply replacement: procedures for resolution of water supply damage claims," is a new section that summarizes the responsibility of mine operators, landowners, water users and PADEP in resolving claims of water supply contamination diminution or interruption.

25 PA Code 89.152 "Water supply replacement: relief from responsibility," is a new section which describes the conditions under which an operator may be relieved of responsibility to restore or replace a water supply.

25 PA Code 89.153 "Water supply replacement: rebuttable presumption," is a new section which describes the effect of the rebuttable presumption provision under section 5.2 of the BMSLCA and the means by which an operator may rebut a presumption.

25 PA Code 89.154 "Maps," describes the contents of the mine subsidence control plan maps and the six month mine maps. Most of the requirements were existing and were relocated from 25 PA Code 89.142. Subsection (a) describes the content of the general mine map, while subsection (b) describes the content of the six month mine map. While much of the information required by this section is the same as required by existing regulations, some additional details have been added.

25 PA Code 89.155 "Public Notice," contains public notice requirements which have been relocated from Section 89.144. Two additional parties have been added to the list of persons to be notified. Under this proposal, owners of all structures and owners of all utilities must now be notified of proposed mining.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administration Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on September 9, 1998. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES.** A summary of meeting will be included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 18, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–22741 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–05–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1281

RIN 3095–AA82

Presidential Library Facilities

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA is issuing regulations relating to acceptance of new Presidential libraries under the Presidential Libraries Act amendments of 1986. That Act requires the Archivist of the United States to promulgate architectural and design standards for Presidential libraries and specifies what information NARA must provide to the Congress before accepting completed Presidential library buildings. NARA must obtain some of the information from the private foundations or other entities that develop the Presidential library. This rule will affect those private foundations or other entities created to design, construct and equip Presidential libraries.

DATES: Comments on the proposed rule and the proposed information collection contained in § 1281.18 must be received by October 26, 1998.

ADDRESSES: Comments on the regulation and the proposed information collection must be sent to Regulation Comment Desk (NPOL), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to 301–713–7270.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this proposed rule should be sent also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NARA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at (301) 713–7360, extension 226.

SUPPLEMENTARY INFORMATION: Presidential libraries are constructed by non-federal or private organizations using non-federal or privately-raised funds. After completion, the buildings are donated or turned over to the Federal Government for use in perpetuity as part of the National Archives and Records Administration (NARA) system. The laws providing for the Federal Government to accept the completed building are codified in 44 U.S.C. 2112. Also in 44 U.S.C. 2112 are requirements that the Archivist of the United States promulgate architectural and design standards for Presidential libraries, and that an endowment be established by the donor of a new Presidential library and deposited in the National Archives Trust Fund prior to acceptance by NARA. The amount of the required endowment is based on several factors, including the size of the facility and the total costs of construction and improvements.

Before NARA can accept and take title to any Library or enter into an agreement to accept or establish a Library, the Archivist must submit a written report on the proposed Presidential archival depository to Congress. The report must include a certification that the facility and equipment meet the standards promulgated by the Archivist. and must contain information about the endowment.

This regulation prescribes the design and construction approval process that NARA requires for new Presidential library facilities, information that must be furnished to NARA for its report to Congress, the required operating equipment that must be part of the endowment established by the donor of a new library, and background materials that must be provided to NARA to assist in its operation of the completed facility. The regulation also cites statutory requirements for the endowment that must be provided to NARA by the private foundation to help offset facility operating expenses and defines the measurement standard that NARA will use in calculating the square footage of the library.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866. A copy of the proposed rule will be sent to OMB for review of the proposed information collections under the Paperwork Reduction Act. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small entities.

Paperwork Reduction Act

This proposed rule contains information collection activities which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Under this Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The reporting burden for this collection is estimated to be approximately 31 hours per response for providing to NARA the information specified in proposed § 1281.18 or in proposed § 1281.20, including the time for gathering and maintaining the data needed and completing and reviewing the collection of information. A respondent would be required to submit a response on a one-time basis, when the new Presidential library is to be offered to the Government or when a gift to wholely fund a change or addition to a Presidential library is proposed. We estimate that fewer than one response will be required annually. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of NARA's functions, including whether the information would have practical utility; (b) the accuracy of NARA's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Please send any comments to NARA and OMB (see **ADDRESSES**).

List of Subjects in 36 CFR Part 1281

Archives and records, Federal buildings and facilities, Incorporation by reference, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, NARA proposes to add a new Part 1281 in Subchapter G of Chapter XII, Title 36, Code of Federal Regulations, to read as follows:

PART 1281—PRESIDENTIAL LIBRARY FACILITIES

Sec.

Authority: 44 U.S.C. 2104(a), 2112.

§ 1281.1 Purpose.

(a) This part implements provisions of the Presidential Libraries Act, codified at 44 U.S.C. 2112 (a) and (g), which require the Archivist of the United States to promulgate architectural and design standards for new and existing Presidential libraries, to submit a written report to the Congress before accepting new libraries or certain proposed physical or material change or addition to an existing library; and to ensure that the endowment specified by 44 U.S.C. 2112(g) is available.

(b) This part applies to design and construction of new libraries that are offered to NARA on or after [the effective date of the final regulation] and to material changes or additions to new and existing libraries funded wholly by gift on or after that date.

§ 1281.2 Definitions.

The following definitions apply to this part:

Archival functions. The term means arranging, describing, reviewing, preserving, reproducing, restoring, exhibiting, and making available Presidential and other records and historical materials in the care and custody of the Presidential libraries, and includes the salaries and expenses of NARA personnel performing those functions.

BOMA standard. The Building Owners and Managers Organization Standard Method for Measuring Floor Areas in Office Buildings, dated June 7, 1996, and also listed as ANSI Z65.1–1996, which is hereby incorporated by reference in this part. The standard cited in this paragraph is available from the American National Standards Institute, (ANSI), Inc., 11 West 42nd Street, New York, NY 10036. It is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

Equipment. As used in this part, the term means operating equipment that must be furnished with the new library. Operating equipment is essential to the operation of the Library and is built into the facility or permanently mounted to the structure.

Existing library. Any Presidential library created as a depository for the papers, documents, and other historical materials and Federal records pertaining to any President who took the oath of office as President for the first time before January 20, 1985.

Facility operations. Those activities, including administrative services, involved with maintaining, operating, protecting, and improving a Presidential library.

Foundation. A private, non-profit organization formed to construct the library and to provide continuing support for various library programs.

Historical materials. The term historical materials has the meaning set forth at 44 U.S.C. 2101.

New library. Any Presidential library created as a depository for the Presidential records, historical materials, and Federal records pertaining to any President who takes the oath of office as President for the first time on or after January 20, 1985.

Physical or material change or addition. Any addition of square footage, as defined by the BOMA Standards, or any physical or material change to the existing structure of a new (or existing) library that results in a significant increase in the cost of facility operations.

Presidential library. Presidential library means a Presidential archival depository as defined in 44 U.S.C. 2101.

Presidential records. The term has the meaning set forth at 44 U.S.C. 2201.

§ 1281.4 Initial consultation with NARA.

The Foundation is encouraged to consult with NARA's Office of Presidential Libraries early in the planning of a new Presidential library or of a physical or material change or addition to a new or existing library. NARA will furnish the Foundation a copy of the NARA document "Architectual and Design Standards for Presidential Libraries." Others may request a single copy by writing the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Road, College Park, Maryland 20740–6001.

§ 1281.6 NARA review during design phase.

During the design phase of a Presidential library, the Foundation must schedule review points that will allow for NARA review of design and construction documents. In conducting reviews under this section, NARA will use the guidelines set forth in the NARA document "Architectural and Design Standards in Presidential Libraries." The review points include:

(a) *Conceptual development.* One NARA review must occur at completion of the development of functional relationships and block diagraming and another NARA review must occur at completion of the development of a building floor plan, interior plans, building sections, elevations, site plan, roofing systems, and other major features. NARA will review site plans for security vulnerability, access for the disabled, geographic features and vulnerabilities such as flood plains or earthquake fault zones, and appropriate parking spaces, including visitor, bus, and van parking. NARA also will review the architect's preliminary estimate of the facility size and will provide the Foundation information for purposes of planning the endowment.

(b) *Design development.* NARA review must occur at the completion of design development drawings when the details and finishes of all major spaces and functions are determined and when building systems, mechanical equipment, and systems design have been determined. NARA will review major fire suppression systems, security systems and security control locations, vault security, environmental requirements, building and mechanical systems controls, secured exit locations

and entrances, computer and communications equipment design plans, and preliminary equipment and furniture specifications. NARA will review building systems, equipment, construction materials and furniture specifications to ensure that materials with certain environmental and off-gassing effects are not used.

(c) *Construction documents.* NARA review of final construction documents must be scheduled with sufficient time to incorporate changes and any final comments before the project is given to a contractor for the actual construction.

§ 1281.8 NARA review during construction phase.

The Foundation must provide for NARA review at the points specified in paragraphs (a) and (b) of this section during the construction of the Presidential library. In conducting reviews and inspections under this section, NARA will use the guidelines set forth in the NARA document "Architectural and Design Standards in Presidential Libraries."

(a) *Pre-final inspection walk through.* NARA must conduct a review of construction at the 75% stage of completion. The Foundation must ensure that construction deficiencies identified in this review, if any, are reviewed and corrected before final completion of the project.

(b) *Final inspection.* NARA will conduct a final inspection when the Foundation notifies NARA that the construction contractor certifies and the Construction Quality Manager (CQM) verifies that the project is substantially (99%) completed and available for occupancy except for very minor corrections typically listed on a final punch list for the project. The NARA inspection will review all completed construction in accordance with the construction documents; evaluate the CQM and architect/engineer certifications of the work as provided in § 1281.11; review the inspections and testing reports of the work in progress provided by the construction contractor and CQM; and verify that all building systems are operating and will provide for safe keeping of documents and artifacts. Upon successful completion of the inspection; and certify to Congress that the building is ready for Government acceptance and occupancy.

§ 1281.10 Certifications.

(a) The Foundation must require the design architect or engineer who prepares the construction documents to certify that their design and their plans and specifications meet the standards promulgated pursuant to 44 U.S.C. 2112(a)(2). This certification by the designer must be in the form of a written certification letter with the seal of the professional architect and engineer affixed to the certification indicating that the design has complied with these requirements.

(b) The Foundation must engage a separate and independent Construction Quality Manager (CQM). The CQM functions cannot be provided by the design architect/engineer. The qualifications and scope of duties of the CQM should be approved by NARA prior to selection. Before NARA will accept the completed library project, the CQM must provide a certification that the project was built in accordance with the design and specification requirements. At the end of the project, the CQM also must provide a certification that all tests and inspections of all systems have been completed and must gather all documents and information, including test results, and bind those in a CQM document that records the results of the CQM effort. A CQM must:

(1) Certify that all construction work is completed in accordance with the final construction documents;

(2) Review and certify all construction installations and materials, including any work that will become hidden or covered by later work, specific attention being given to reinforcement of foundations and secure vault walls and other systems where the quality of the final product depends on a complete installation;

(3) Review all tests on completed assemblies such as roofing systems, window glazing systems, sprinkler and fire protection systems, emergency lighting systems, mechanical equipment operation, and other assemblies and certify that the tests meet the requirements of the design documents;

(4) Approve all finishes to ensure that they meet the environmental quality criteria specified in the Architectural and Design Standards for Presidential Libraries;

(5) Evaluate all shop drawings and inspect work completed by subcontractors to certify that the work meets the intent of the design documents and the approved shop drawings; and

(6) Participate in punch lists and routine inspections to certify that the construction meets the design requirements and all corrections have been made before the building is accepted by the Government.

(c) NARA will use the certifications provided under this section, and the results of the reviews and inspections conducted under §§ 1281.6 and 1281.8, to make the certification required of the Archivist under 44 U.S.C. 2112(a)(3)(G).

§ 1281.12 Equipment.

The Foundation must provide the equipment specified in this section as part of the new Presidential library. The NARA document "Architectural and Design Standards in Presidential Libraries" provides equipment guidelines, recommendations, and minimum requirements. The cost of the equipment is included in the calculations of the endowment provided by the Foundation pursuant to 44 U.S.C. 2112(g)(3). Required equipment items are:

(a) Building mechanical systems, including HVAC equipment, the automated buildings control system, and fume hoods/exhaust system;

(b) Building plumbing systems, including sump pumps;

(c) Specialized cool and cold storage systems;

(d) Fire safety systems, including the sprinkler and detection/alarm and emergency public address components;

(e) Emergency generator and any other emergency and exit lighting;

(f) High-quality security systems, including CCTV;

(g) Shelving for archival and museum storage that meets the following specifications:

(1) *Records storage shelving.* Records storage shelving must have a capacity for at least 30,000 cubic feet of general records and 7,000 cubic feet of classified records (for a one-term administration's library) or a capacity for at least 37,500 cubic feet of general records and 8,750 cubic feet of classified records (for a two-term administration). NARA strongly recommends the use of electrically-operated compact shelving as the only practical method of achieving the required storage capacity within the space limits of the endowment formula;

(2) *Museum storage equipment.* Museum storage shelving must provide for a minimum of 15,000 cubic feet of materials. Electrically-operated compact storage systems are permitted;

(3) *Audiovisual storage equipment.* The cold storage room shelving must provide capacity for 5,000 cubic feet of audiovisual materials. Electrically-operated compact shelving is permitted;

(h) Carpeting and other suitable floor coverings;

(i) Built-in furnishings such as lobby information desks;

(j) Telecommunications and computer communications main distribution frames, intermediate distribution frames (IDF's), concentrators, routers, conduit, cable raceways, distribution back-bone,

frame-to-frame cabling, and local cabling from the IDF's to the work stations (but not the actual telephone sets or computer systems and equipment);

(k) Audio-visual equipment built-in to the building including ceiling-mounted screens in the conference/training room, a retractable screen for video, a ceiling-mount video projector (XVGA) with interface wall outlet for the conference/training room, and a retractable projection screen for the auditorium (but not portable audio-visual equipment such as slide projectors, stand-alone screens, portable lecterns, portable video equipment for recording of events, or equipment used for the preservation or duplication of audio-visual materials, or used to provide reference service). If the library has a separate theater for public events, audiovisual equipment also includes sound systems installed in the theater and projection equipment mounted in the theater;

(l) Orientation theater equipment and furnishings including fixed seating to accommodate at least 100 people, a podium, a projection booth fully equipped to project recorded video (betacam, ¾" and laser disk) and computer graphics (XVGA); a sound system, and an assisted listening system;

(m) A double sink with garbage disposal, two counter cabinets with at least 36" of counter space with under counter cabinets in the staff lunchroom;

(n) A double sink with garbage disposal and four counter cabinets with at least 72" of counter space with under counter cabinets for the catering kitchen; and

(o) Paint booth with hood and appropriate ventilation and an exhaust fan for the paint room.

§ 1281.14 Equipment not considered for purposes of the endowment.

In addition to the items specifically excluded in § 1281.12, the following types of items are not considered equipment for the purposes of the endowment:

(a) Stand-alone, modular, or systems furniture in offices, research rooms and public areas;

(b) Equipment to read microforms;

(c) Equipment, including power- and hand-tools, to design, construct, install and display museum exhibitions;

(d) Suitable wall hangings, paintings, and framed photographs for use as wall decorations; office equipment; and

(e) Other additional stand-alone equipment and furnishings necessary to carry out library programs.

§ 1281.16 Waiver of equipment requirements.

If, as part of its review and inspection process, NARA specifies the use of a particular piece or type of equipment required under § 1281.12, the Foundation may request a waiver. NARA will grant a waiver only if the changes result in the provision of equal or better equipment for the Library.

§ 1281.18 Information to be given to NARA for its report to Congress on a new Presidential library facility.

The Foundation must provide the information specified in this section to the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Rd., College Park, MD 20740–6001, at least 6 months in advance of the anticipated date of transfer of the Library to NARA. If a State, political subdivision, university, institution of higher learning, or institute will make the land, facility, and equipment available to NARA under an agreement without transfer of the title to the United States Government, that party must provide the information specified in paragraphs (c) and (d) of this section. The information that must be provided to NARA is:

(a) A description of the land, facility, and equipment offered as a gift or to be made available without transfer of title, which must include:

(1) The legal description of the land, including plat;

(2) Site plan, floor plans, building sections and elevations, artist's representation of building and grounds;

(3) Description of building contents, including furniture, equipment, and museum installations; and

(4) Measurement of the facility in accordance with § 1281.26;

(b) Statement of the estimated total cost of the library;

(c) A statement of the terms of the proposed agreement for transfer or use of the facility, if any, which must include:

(1) Copies of the proposed instrument of gift, perpetual lease, or other legal instrument accomplishing transfer of the facility;

(2) Copies of any proposed agreements between the state, other political subdivision, the donating group, other institutions, and the United States which may affect ownership or operation of the Library facility; and

(3) A statement of and copies of any proposed agreements concerning the proposed support of Library programs by non-federal sources;

(d) A description (including estimated costs) of any additional improvements and equipment being provided by any State government agency (provided by the State government agency);

(e) A statement on cost-saving design features of the building; and

(f) the written certification from the independent Construction Quality Manager (CQM) required by § 1281.10.

§ 1281.20 Information to be given to NARA for its report to Congress on a change or addition to a Presidential library facility.

(a) This section applies only if a physical or material change or addition to a new or existing library is funded wholly by gift.

(b) The Foundation or other party offering the gift to NARA must provide the information specified in this section to the Office of Presidential Libraries (NL), Room 2200, 8601 Adelphi Rd., College Park, MD 20740–6001, at least 270 days in advance of the anticipated date that work will begin on the physical or material change or addition to the Library. The information that must be provided to NARA is:

(1) A description of the gift, which must include as appropriate:

(i) The legal description of the land, including plat;

(ii) Site plan, floor plans, building sections and elevations, artist's representation of building and grounds as they will be affected by the gift;

(iii) Description of building contents that are part of the gift, including furniture, equipment, and museum installations; and/or

(iv) Measurement of the addition or change to the facility in accordance with § 1281.26.

(2) A statement of the estimated total cost of the proposed physical or material change or addition to the library.

(3) A statement of the purpose of the proposed change or addition.

(4) A statement of any additional improvements and/or equipment for the library associated with the change or addition.

(5) A written certification that the Library and the equipment therein will comply with NARA standards after the change or addition is made.

§ 1281.22 Other documentation to be given to NARA for a new Presidential library and changes or additions to existing libraries.

Before NARA accepts the library, or as a condition of acceptance of a gift that will wholely fund a physical or material change or addition to an existing library, the foundation must provide NARA:

(a) As-built drawings. Three hard copies (sepia and two prints) and one electronic copy (construction documentation created on an electronic drafting system) of the as-built

drawings. All hard copies of specifications and drawings must be signed and stamped by a Professional Engineer or Registered Architect.

(b) Project specifications. Two sets in hard copy and an electronic copy in word processing format of all specifications and all design calculations for the project.

(c) Operation and maintenance manuals. Four copies of the manufacturer's operation and maintenance (O&M) manuals for each major system or item of equipment. The O&M manuals should present information in sufficient detail to clearly explain O&M requirements at the system, equipment, component, and subassembly level.

(d) Computer based maintenance management system (optional). If the foundation provides an automated maintenance management system for the library to provide for asset management of all installed equipment and to provide a database of all of the operation and maintenance information contained in the operations and maintenance manuals (see paragraph (c) of this section), the foundation must provide to NARA:

(1) A valid licensed copy of the software;

(2) Computer and printer which provide full functionality and performance to operate the s ystem effectively;

(3) Technical manuals on the operation of the system;

(4) Fully installed software, including the loading of all equipment, part inventory, and preventive maintenance requirements for all equipment;

(5) Bar coding of all major pieces of equipment with bar code data entered into the software database;

(6) Training on the use and operation of the software and hardware.

(e) Shop drawings.

(f) Keys and key cabinet.

(g) Spare parts (attic stock) supplied by the contractor.

(h) Submittals (product description sheets).

(i) All general building warranties, assigned to NARA acting for the United States Government. The following information must be provided on all of the warranties:

(1) Equipment or systems covered by the warranty;

(2) Warranty period (dates);

(3) Warranty contacts with names, addresses and telephone numbers;

(4) The name, address, and telephone number of the guarantor's representative nearest to the location where the equipment and appliances are installed; and

(5) Bonding company name and address.

(j) Extended equipment and product warranty list. A bound and indexed notebook containing written warranties for equipment/products that have extended warranties (warranty period exceeding the standard one-year warranty), and with a complete listing of such equipment/products. The equipment/product listing must state the specification section applicable to the equipment/product, duration of the warranty, start date of the warranty, ending date of the warranty, and the point of contact for fulfillment of the warranty.

(k) Final inspection report indicating all punch list items have been corrected.

(l) User training manuals.

(m) Framed instructions.

(n) User training on all systems and components.

(o) Training videos on:

(1) Operation of all major mechanical equipment, including boilers, chillers, cooling towers, and air handling equipment;

(2) Operation of all access control systems, including programming the card readers, operating the computer based security database, and use of closed circuit television and intrusion detection systems;

(3) Building management systems and computer based energy management systems, security systems, fire control systems and alarms, LAN and WAN telecommunications systems, and lighting control systems, including training on maintaining and replacing lighting control sensors.

(p) Personnel training requirements.

(q) Final completion photos.

(r) Operating instructions for all mechanical systems and built-in equipment, such as audiovisual and public address systems, fire detection systems, security systems, etc.

(s) Preventive maintenance requirements on all major equipment.

(t) Parts identification.

(u) Special testing equipment and any special tools required for maintenance.

(v) Occupancy permit from the local jurisdiction.

(w) Certificates of testing and a copy of all test results, which must be made by an independent accredited testing laboratory qualified to performed sampling and tests of building materials. Acceptable accreditation programs are the National Institute of Standards and Technology (NIST), National Voluntary Laboratory Accreditation Program (NVLAP), the American Association of State Highway and Transportation Officials (AASHTO) program and the American Association for Laboratory Accreditation (AALA) program.

§ 1281.24 Endowment.

(a) The donor of a new Presidential library must establish an endowment for the library in the National Archives Trust Fund before the library is transferred to NARA. The endowment requirements for new libraries are set forth in 44 U.S.C. 2112(g) (1) through (3).

(b) The Archivist must determine that the endowment requirements of 44 U.S.C. 2112(g)(4) are met before the Archivist may accept any gift for a proposed physical or material change or addition to a new Presidential library that would result in an increase in the costs of facility operations, or may implement any provision of law requiring the making of such a change or addition.

(c) Endowment funds may be used to cover facility operations expenses, but may not be used to cover archival functions expenses.

§ 1281.26 NARA standard for measuring building size.

(a) For purposes of 44 U.S.C. 2112(g) (3) and (4), and this part, NARA has adopted the Building Owners and Managers Organization (BOMA) Standard Method for Measuring Floor Areas in Office Buildings, dated June 7, 1996 (ANSI Z65.1–1996) (incorporated by reference in § 1281.2), as the standard for measuring the size of the facility, and the BOMA Usable Square Footage (except that service corridors described in paragraph (c) of this section are excluded from the measurement) as the value for calculating the endowment. NARA has determined that excluding service corridors from the BOMA Usable Square Footage serves a public purpose: to ensure that adequate-width corridors are provided between the areas cited. In its report to Congress NARA must certify the square footage of the building (or portion thereof) that will be maintained by NARA.

(b) Useable square footage is measured from inside finish to inside finish wall of the occupied areas, exclusive of building support areas and construction areas defined in paragraph(c) of this section. For exterior glass walls, the finish areas will be measured based on the "dominant portion" of the wall as defined in the BOMA standard. If, for example a window is over 50% of the wall area, then the inside face of the window is the dominant portion and will be used for measurement of usable area. Include the areas of all walls and partitions within the space that will be maintained by NARA.

(c) The "useable square footage" excludes the following spaces when they occur within the spaces maintained by NARA. These specific areas are considered part of the common building space and not assignable as part of the total usable square footage.

(1) *Circulation.* (i) Main and secondary service corridors. Service corridors provide access between the loading dock, records and museum item storage areas, research rooms, and the museum display area. In order to qualify for exemption as a "service corridor" the corridor must be enclosed on both sides by floor to ceiling walls. General purpose corridors used for staff and visitor circulation are not excluded.

(ii) Code-required corridors. In order to qualify for exemption as a "code required corridor" the corridor must be enclosed on both sides by a fire-rated wall from floor slab to structural slab above and must be a required part of a "means of egress" or "horizontal exit" as defined in Section 5–1, 2 of the Life Safety Code (NFPA 101, 1997 edition), which is hereby incorporated by reference. The standard cited in this paragraph is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101. It is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(iii) Elevator shafts.

(iv) Stairs.

(v) Entrance weather vestibules.

(2) *Service areas.* (i) Public rest rooms (rest rooms that are only accessible to members of the staff are not excluded).

(ii) Maintenance rooms.

(iii) Locker rooms for custodial and mechanical staff.

(iv) Custodial closets (with or without sinks).

(v) Maintenance and custodial storerooms.

(vi) The driveway-level portion of the loading dock area within the exterior line of the building used solely to provide protection from the weather while loading/unloading.

(3) *Mechanical/electrical areas.* (i) Duct and service shafts.

(ii) Mechanical equipment rooms and boiler rooms.

(iii) Telecommunications closets.

(iv) Electrical closets.

Dated: August 17, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–22673 Filed 8–24–98; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[GA–37–9819b; FRL –6143–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is approving a revision to the Georgia State Implementation Plan (SIP). This revision was to incorporate the Post 1996 Rate-of-progress Plan (9 percent plan) submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) on November 15, 1993, and amended on June 17, 1996, into the SIP. Supplemental information was submitted on April 14, 1988. This submittal was made to meet the reasonable further progress requirements of section 182(c)(2) of the Clean Air Act, as amended in 1990 (CAA).

In the Final Rules Section of this **Federal Register**, EPA is approving the Georgia State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule published elsewhere in todays **Federal Register**. If no significant, material, and adverse comments are received no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by September 24, 1998.

ADDRESSES: Written comments should be addressed to Scott Martin at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Georgia Department of Natural Resources, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register.**

Dated: August 3, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–22651 Filed 8–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32 and 64

[CC Docket No. 98–81; FCC 98–108]

1998 Biennial Regulatory Review—Review of Accounting and Cost Allocation Requirements; United States Telephone Association Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this Notice of Proposed Rulemaking, (*NPRM*), the Commission proposes as part of the biennial review to modify its accounting and cost allocation rules. The Commission proposes to raise the threshold significantly for required Class A accounting thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts. In addition, the Commission proposes to establish less burdensome cost allocation manual ("CAM") procedures for the mid-sized incumbent local exchange carriers ("LECs") and to reduce the frequency with which independent audits of the cost allocations based upon the CAMs are required. Finally, the Commission propose several changes to the Uniform System of Accounts ("USOA") to reduce accounting requirements and to eliminate or consolidate accounts.

DATES: Written comments by the public on the proposed information collections

are due July 17, 1998 and reply comments on or before September 4, 1998.

ADDRESSES: Office of the Secretary, Room 222, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Warren Firschein, Accounting Safeguards Division, Common Carrier Bureau, (202) 418–1844. For additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), CC Docket No. 98–81, adopted on June 2, 1998, and released on June 17, 1998. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Paperwork Reduction Act

This NPRM contains either a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due October 26, 1998. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: 1998 Biennial Regulatory Review—Review of Accounting and Cost Allocation Requirements, CC Docket No. 98–81.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for profit.

Title	No. of respondents	Estimated time per response	Total annual burden
Uniform Systems of Accounts	239	12,672.6	2,398,268
Cost Allocation Manual	18	600	10,800
Auditor's Attestation	19	342.1	6,500

Total Annual Burden: 2,415,568.

Estimated costs per respondent: $1,200,000.

Needs and Uses: This Notice of Proposed Rulemaking proposes to modify the Commission's accounting and cost allocation rules as part of the biennial review process. Specifically, the Commission proposes (1) to raise the threshold significantly for required Class A accounting, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) to establish less burdensome cost allocation manual ("CAM") procedures for the mid-sized incumbent local exchange carriers ("LECs") and to reduce the frequency with which independent audits of the cost allocations based upon the CAMs are required; and (3) to make certain changes to our Uniform System of Accounts ("USOA") to reduce accounting requirements and to eliminate or consolidate accounts. If the proposals are adopted as proposed, we anticipate a reduction of over 500,000 burden hours. The proposed information collection requirements will provide the necessary information to enable this Commission to fulfill its regulatory responsibilities.

Summary of Notice of Proposed Rulemaking

1. Section 11 of the Communications Act of 1934, as amended, requires the Commission, in every even-numbered year beginning in 1998, to review its regulations applicable to providers of telecommunications services to determine whether the regulations are no longer in the public interest due to meaningful economic competition between providers of such service and whether such regulations should be repealed or modified. Section 11 further instructs the Commission to "repeal or modify any regulation it determines to be no longer necessary in the public interest."

Streamlining Accounting Requirements for Mid-Sized Incumbent LECs

2. Section 32.11 of the Commission's rules establishes two classes of incumbent local exchange carriers for accounting purposes: Class A and Class B. Carriers with annual operating revenues above a designated indexed revenue threshold, currently $112 million, are classified as Class A; those with annual operating revenues below the threshold are considered Class B. The classification of a carrier is determined by its lowest annual operating revenues for the five immediately preceding years. Class A carriers must record their transactions in 261 accounts while Class B carriers maintain only 109 accounts. Our accounting system is designed to enable management and policymakers to assess the results of operational and financial events. The financial data contained in the accounts, together with the detailed information contained in the other subsidiary records required by the Commission, provide the information necessary to support jurisdictional separations, cost of service, and management reporting requirements. The basic account structure has been designed to remain stable as reporting requirements change.

3. We propose to streamline accounting requirements for certain mid-sized incumbent LECs based on the aggregate revenues of the incumbent LEC and any LEC that it controls, is controlled by, or with which it is under common control. If the aggregate revenues of these affiliated incumbent LECs are less than $7 billion, then each LEC within that group would be eligible

for Class B accounting, even if the annual operating revenue of any individual LEC exceeds $112 million. Among incumbent LECs, this revision would limit Class A accounting to the Bell Operating Companies and the GTE Operating Companies. All other incumbent LECs could use the Class B system of accounts. The $7 billion threshold will provide the Commission with Class A accounting data for nearly 90% of the industry for local exchange telecommunications, as measured by annual operating revenues.

4. We have maintained Class A and Class B accounting requirements since we revised the USOA more than ten years ago. Through our auditing functions and ongoing review of company financial information, we have had sufficient experience with carriers of different size to conclude tentatively that we can maintain the necessary degree of oversight and monitoring while imposing less administratively burdensome accounting requirements on the mid-sized carriers. We have reached this conclusion because we have generally found that mid-sized carriers typically conduct a lower volume of transactions involving competitive products and services than the large incumbent LECs, thus providing easier monitoring and oversight because there are fewer opportunities for these mid-sized carriers to subsidize competitive services with the revenues earned from the provision of noncompetitive services. We therefore tentatively conclude that mid-sized carriers may opt to use Class B accounting. We seek comment on these tentative conclusions and also specifically ask commenters to address any possible effects on jurisdictional separations that could result from adopting these tentative conclusions.

5. For the largest incumbent LECs, however, our review of these rules indicates that we should maintain the level of detail required by Class A accounting. We believe that the more detailed Class A accounting is required to monitor the large incumbent LECs as competition begins to develop in local telephony markets. The more detailed accounting requirements are also necessary for the Commission to uphold our statutory obligations under sections 254(k), 260, 271, 272, 273, 274, 275, and 276 of the Act. Class A accounting is necessary to ensure that the largest incumbent LECs are in compliance with these provisions, such as section 254(k)'s mandate that "a telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition." The level of detail of the Class A accounting rules allows us to identify potential cost misallocations beyond those revealed by the Class B system of accounts. Although we are cognizant of the necessity of balancing our continuing need for information against our desire not to impose unreasonable or unnecessary reporting requirements, we have found that Class A accounting provides the level of detail needed to ensure that a carriers' emerging competitive activities are not subsidized by its noncompetitive activities. In allocating costs between regulated and nonregulated activities, use of Class A accounts also provides more refined cost allocations without imposing an undue burden on the largest incumbent LECs. Moreover, we have long recognized that, for managerial decision-making and other purposes, incumbent LECs maintain their financial records in significantly more detail than that required for Class A carriers in our Part 32 rules. Because incumbent LECs disaggregate their financial records into much greater detail than our Class A requirements, we tentatively conclude that the burden on the largest incumbent LECs resulting from Class A accounting and reporting requirements does not outweigh our needs for collecting financial information. We therefore intend to maintain the Class A accounting requirements for the largest incumbent LECs. We seek comment on this tentative conclusion and ask for comment whether, instead, we should relax Class A requirements for the largest incumbent LECs.

6. We note that our pole attachment formulas are based on Class A accounting detail. If the Commission adopts Class B accounts for mid-sized incumbent LECs as proposed herein, the ARMIS reports of the mid-sized incumbent LECs would no longer provide the details needed to calculate pole attachment fees using the pole attachment formulas. The details provided in eight Class A accounts are needed to provide data for the pole attachment formulas: six accounts associated with cable and wire facilities investment and expenses, and two accounts associated with network operations expenses. We seek comment on whether mid-sized incumbent LECs should be required to maintain subsidiary record categories to provide the data now provided in the eight Class A accounts and to report in ARMIS the information in the noted accounts as well as other information required by the pole attachment formulas.

7. We note that, while the same indexed revenue threshold is applied for Part 32 carrier classification purposes and Part 64 cost allocation purposes, the threshold is applied differently. For part 32 purposes, the accounting classification for a carrier is determined by its lowest annual operating revenues for the five immediately preceding years. For part 64 cost allocation purposes, carriers must file CAMs and obtain independent audits of their cost allocations based upon those CAMs after carriers exceed the indexed revenue threshold. This dichotomy provides unnecessary complexity to our rules. Accordingly, in light of our tentative conclusions to relax accounting requirements for certain mid-sized incumbent LECs, we see no reason to maintain the difference between the application of the indexed revenue threshold for part 32 and part 64 purposes. We have tentatively concluded that mid-sized LECs should continue to follow our Class B accounting rules until their annual revenues exceed $7 billion, thus, crossing the $112 million threshold will no longer have an effect on a carrier's cost allocation process. Because we see no reason to maintain the difference between exceeding the indexed revenue threshold for part 32 accounting or part 64 cost allocation purposes, we tentatively conclude that carriers should be classified as Class A at the start of the calendar year following the first time their annual operating revenues exceed the indexed revenue threshold. We seek comment on this tentative conclusion.

8. Section 64.903 of the Commission's rules requires incumbent LECs with $112 million or more in annual operating revenues to file CAMs setting forth the cost allocation procedures that they use to separate costs between regulated and nonregulated services. These CAMs include the following: (a) A description of each of the company's nonregulated activities; (b) a list of the activities that the company accords incidental accounting treatment; (c) a chart showing all of its corporate affiliates; (d) a statement identifying affiliates that engage in or will engage in transactions with the carrier entity and describing the nature, terms, and frequency of such transactions; (e) for each USOA account and subaccount, detailed specifications of the cost categories to which amounts in the account or subaccount will be assigned and of the basis on which each cost category will be apportioned; and (f) a description of the carrier's time reporting procedures. We tentatively conclude that we should reduce the administrative burden on mid-sized incumbent LECs by eliminating or

modifying some of the information required in their CAMs, because our experience has taught us that we can maintain the necessary degree of oversight and monitoring while imposing less administratively burdensome requirements on mid-sized incumbent LECs, which tend to have lower transactional volumes than the largest incumbent LECs.

9. We tentatively conclude that mid-sized incumbent LECs may maintain their accounts at the Class B level. Consistent with our proposed change in the level of accounting detail required, we tentatively conclude that mid-sized incumbent LECs should be permitted to submit their CAMs based upon the Class B system of accounts. We seek comment on these tentative conclusions. In the CAM section that describes nonregulated activities, carriers must include a matrix that shows each nonregulated product or service and the accounts associated with each product or service. In the CAM section describing cost allocation procedures, carriers are required to provide detail cost pools and allocation methods by account. By allowing mid-sized incumbent LECs to submit their CAMs based upon the Class B system of accounts, we intend to reduce the reporting burden of the nonregulated activity matrix and the cost apportionment section of the CAM. We seek comment on this approach.

10. Section 64.904 of the Commission's rules requires that an independent audit of reported cost allocation data must be performed annually for all carriers that are required to file cost allocation manuals. This rule requires that the audit shall provide a positive opinion that the reported data is presented fairly in all material respects and the audit shall be conducted in accordance with generally accepted auditing standards, except as otherwise directed by the Chief, Common Carrier Bureau. We propose to reduce the audit requirements for the mid-sized incumbent LECs. We tentatively conclude that mid-sized incumbent LECs be required to obtain an audit every two years instead of annually. We also propose that the required audit be an attest audit, which has significantly less stringent standards of testing, reporting and expression of opinion than the audits currently required. As stated before, our experience with carriers of different size leads us to conclude tentatively that we can maintain the necessary degree of oversight and monitoring while imposing less administratively burdensome requirements on mid-sized incumbent LECs. We tentatively conclude that the relaxation of the audit requirements as proposed above should significantly reduce the cost of the audit requirement for mid-sized incumbent LECs. We seek comment on these tentative conclusions.

11. For the largest incumbent LECs, however, our review of these rules indicates that we should maintain the annual audit requirements as presently provided for in § 64.904 of our rules. Because the largest incumbent LECs tend to conduct a much greater transactional volume of competitive services than the smaller and mid-sized carriers, there is a greater risk of harm to consumers and competitors from cross-subsidization among these carriers. As stated above, Class A accounting is necessary to properly monitor the largest incumbent LECs because these carriers tend to offer a large volume of competitive products and services, thereby creating numerous opportunities for these largest carriers to subsidize competitive services with the revenues earned from the provision of noncompetitive services. Accordingly, we believe that these audits are required to monitor the large incumbent LECs as competition begins to develop in local telephony markets and are necessary for the Commission to uphold our statutory obligations under sections 254(k), 260, 271, 272, 273, 274, 275, and 276 of the Act. We therefore intend to maintain the independent CAM audit requirements for the largest incumbent LECs.

Accounting Changes

12. We have conducted a review of our USOA accounts and tentatively conclude that a number of accounts or filing requirements may be reduced or eliminated. A description of these changes and a discussion of our rationale for our tentative conclusions are set forth below. These modifications will apply to all carriers subject to Part 32 and not just the mid-sized incumbent LECs. We invite comment on these proposals, and on whether, as an alternative, we could have less frequent audits for them as well.

13. *Consolidation of Accounts 2114, 2115, and 2116.* The United States Telephone Association ("USTA") has recommended that we consolidate Account 2114, Special purpose vehicles, Account 2115, Garage work equipment, and Account 2116, Other work equipment, into a single new account. We tentatively conclude that the assets recorded in these accounts are similar in nature and have similar prescribed depreciation rates. In addition, these accounts are treated identically under the jurisdictional separations rules set forth in Part 36 of our rules. We tentatively conclude that the consolidation of these accounts into a single account entitled Account 2114, Tools and other work equipment, would reduce the carriers' accounting and reporting burdens and would not affect the amounts separated between the interstate and intrastate jurisdictions. We seek comment on these tentative conclusions.

14. *Consolidation of Accounts 6114, 6115, and 6116.* We also propose to consolidate Account 6114, Special purpose vehicles expense, Account 6115, Garage work equipment expense, and Account 6116, Other work equipment expense, into a single new account entitled Account 6114, Tools and other work equipment expense. The expenses recorded in these accounts are related to the assets recorded in Accounts 2114, 2115, and 2116 and should also be combined into a single account. In addition, these accounts are treated identically under the jurisdictional separations rules set forth in Part 36 of our rules. We tentatively conclude that the consolidation of these accounts into a single account would reduce the carriers' accounting and reporting burdens and would not affect the amounts separated between the interstate and intrastate jurisdictions. We seek comment on these tentative conclusions.

15. *Accounting for Nonregulated Revenues.* On September 16, 1997, USTA filed a petition for rulemaking requesting that the Commission amend sections 32.23(c) and 32.5280 of its rules to allow carriers to record revenues from all nonregulated activities in account 5280, Nonregulated operating revenues. Such an amendment would modify the current rule that instructs carriers to record revenue from nonregulated activities in account 5280 only if there is no other operating revenue account to which the revenue relates. USTA argues that the use of specific regulated accounts for nonregulated activities places carriers at a competitive disadvantage because competitors could determine product-specific revenue amounts related to incumbent LECs' nonregulated products and services. The petition also proposed elimination of account 5010, Public telephone revenue. Incumbent LECs record message revenue derived from public and semi-public telephone services provided within their basic service areas in account 5010. USTA argues that account 5010 is no longer needed as a result of the deregulation of payphone services as well as the changes it proposed with respect to account 5280. We tentatively conclude that the Commission's interest in ensuring that such costs and revenues

are segregated from the carriers' regulated revenues and expenses would continue to be served by allowing carriers to combine all nonregulated activities into one account. Thus, we tentatively conclude that account 5010 should be eliminated and that the language in sections 32.23(c) and 32.5280 should be revised consistent with USTA's petition. We seek comment on these tentative conclusions.

16. *Revision to Section 32.16, Changes in Accounting Standards.* Section 32.16 of the Commission's rules requires carriers to revise their records and accounts to reflect new accounting standards prescribed by the Financial Accounting Standards Board ("FASB"). This section provides that Commission approval of a change in accounting standards shall automatically take effect 90 days after a carrier notifies the Commission of its intention to follow a new standard. In the notification to the Commission, carriers are required to provide a revenue requirement study that analyzes the effects of the accounting change for the current year and a projection for three years into the future. In recent years, as carriers have adopted new FASB standards, we have found that the forecast data is not necessary to determine whether to approve the proposed modification. We therefore tentatively conclude that carriers should be required to provide only current year revenue requirement studies and that the requirement that carriers provide projected revenue requirement data should be eliminated. We seek comment on these tentative conclusions.

17. *Revision to Section 32.2000(b), Telecommunications Plant Acquired.* Section 32.2000(b)(4), requires carriers to submit for Commission approval the journal entries made to record acquisitions from other entities of telecommunications plant that cost more than $1 million for Class A carriers and $250,000 for Class B carriers. It requires that the text for these entries shall include a complete description of the property acquired and the basis upon which the entries were determined. This requirement was established to ensure that plant acquired from other carriers is recorded at original cost as required in section 32.2000(b) and so does not inflate the rate base or allow recovery of depreciation expense already recovered by the previous owner of the plant. The requirement to record plant acquired from other entities at original cost is well established, and we tentatively conclude that other accounting safeguards such as ARMIS reporting and our audit program, together with our ability to obtain additional information as necessary, are sufficient to assure that carriers will comply with this accounting requirement. We tentatively conclude, therefore, that it is no longer necessary to require the routine filing of these journal entries to ensure that carriers comply with the accounting requirements of section 32.2000(b). Accordingly, we propose to eliminate this filing requirement. We seek comment on this proposal.

18. Finally, we seek proposals for other accounts or filing requirements that could be reduced or eliminated.

Procedural Matters

19. *Initial Regulatory Flexibility Analysis.* The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

20. This NPRM proposes to raise the threshold significantly for required Class A accounting thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts, proposes to establish less burdensome CAM procedures for the mid-sized incumbent LECs and to reduce the frequency with which independent audits of the cost allocations based upon the CAMs are required, and proposes several changes to our USOA to reduce accounting requirements and to eliminate or consolidate accounts. Neither the Commission nor SBA has developed a definition of "small entity" specifically applicable to LECs. The closest definition under SBA rules is that for establishments providing "Telephone Communications, Except Radiotelephone," which is Standard Industrial Classification (SIC) code 4813. Under this definition, a small entity is one employing no more than 1,500 persons.

21. We certify that the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of small entities. Pursuant to long-standing rules, incumbent LECs with annual operating revenues exceeding the indexed revenue threshold must report financial and operating data to the Commission. This NPRM proposes to reduce certain of these reporting requirements among mid-sized incumbent LECs. These changes should be easy and inexpensive for mid-sized incumbent LECs to implement and will not require costly or burdensome procedures. We therefore expect that the potential impact of the proposal rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the NPRM require additional RFA analysis, they should include a discussion of these issues in their comments.

22. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Notice, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration.

23. *Comment Filing Procedures.* Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments no later than July 17, 1998, and reply comments on or before September 4, 1998. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W. Room 222, Washington, D.C. 20554, with a copy to Warren Firschein, Accounting Safeguards Division, Common Carrier Bureau, FCC, 2000 L Street, Suite 200, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services (ITS), at its office at 1231 20th Street, N.W., Washington, D.C. 20036. Comments and reply comments will be made available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

24. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with

section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

25. Parties are also strongly encouraged to submit comments and reply comments on diskette. Such diskette submissions would be in addition to, and not a substitute for, the formal filing requirements addressed above. Interested parties submitting diskettes should submit them to Warren Firschein, Accounting Safeguards Division, Common Carrier Bureau, 2000 L Street, N.W., Suite 200, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Wordperfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, Docket No., type of pleading (comment or reply comments), date of submission, and filename with the "*.wp extension. The diskette should be accompanied by a cover letter.

26. This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules, 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

Ordering Clauses

27. Accordingly, it is ordered that, pursuant to sections 1, 2, 4, and 11 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, and 161 that notice is hereby given of proposed amendments to part 32 and 64 of the Commission's rules, 47 CFR parts 32 and 64, as described in this Notice of Proposed Rulemaking.

28. It is further ordered that, pursuant to sections 1, 4, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, and 220, and § 1.401 of the Commission's rules, 47 CFR 1.401, the Petition for Rulemaking of the United States Telephone Association is granted to the extent indicated herein.

29. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

Part 32

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Uniform System of Accounts.

Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22601 Filed 8–24–98; 8:45 am]

BILLING CODE 6701–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–152, RM–9338]

Radio Broadcasting Services; Avon, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Avon Broadcasting Company to allot Channel 294A to Avon, NC, as its first local aural service. Channel 294A can be allotted to Avon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 35–21–06 North Latitude; 75–30–24 West Longitude. Petitioner is requested to provide further information to demonstrate that Avon is a community for allotment purposes.

DATES: Comments must be filed on or before October 13, 1998, and reply comments on or before October 28, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 8404 Lee's Ridge Road, Warrenton, VA 20186.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–152, adopted August 12, 1998, and released August 21, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–22808 Filed 8–24–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970703165–8208–02; I.D. 062397A]

RIN 0648–AK00

Taking and Importing Marine Mammals; Taking of Marine Mammals Incidental to Power Plant Operations

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

ACTION: Proposed rule; request for comment and information.

SUMMARY: NMFS has received an application from North Atlantic Energy Service Corporation (North Atlantic) for an incidental small take exemption under the Marine Mammal Protection Act (MMPA) to take a small number of marine mammals incidental to routine operations of the Seabrook Station nuclear power plant, Seabrook, NH (Seabrook Station). By this document, NMFS is proposing regulations to allow incidental takes of certain species of

seals at a level up to 2 percent of the potential biological removal (PBR) level for harbor seals, which is currently approximately 34 animals. In order to grant the exemption and issue the regulations, NMFS has preliminarily determined that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and proposed regulations.

DATES: Comments and information must be postmarked no later than October 9, 1998.

ADDRESSES: Comments should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application, draft Environmental Assessment (EA) and of the supporting documents may be obtained by writing to this address, or by telephoning the following contacts.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the preceding individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, NMFS, (301) 713–2055, or Scott Sandorf, Northeast Regional Office, NMFS, (978) 281–9388.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations issued.

Permission may be granted for periods of 5 years or less if NMFS finds that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of these species for subsistence uses and that regulations are prescribed setting forth the permissible method of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On June 16, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from North Atlantic to take marine mammals incidental to routine operations of the Seabrook Station. Seabrook Station is a single unit, 1,150 megawatt nuclear power plant generating facility located in Seabrook, NH. Cooling water for plant operations is supplied by three intake structures approximately 1 mile (1.6 km) offshore in about 60 ft (18.3 m) of water. During normal power operations about 469,000 gallons per minute are drawn through the intakes to a 19–ft (5.8–m) diameter, 3–mile-long (4.8 km) tunnel beneath the seafloor and into large holding bays (called forebays) at the power plant. Lethal takes of harbor seals (*Phoca vitulina*) are known to have occurred and are expected to continue to occur as the animals enter the cooling water intake structures and apparently drown enroute to the forebays. Lethal takes of gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) have also occurred.

Each of the three seawater intake structures consists of a velocity cap that is connected to the subterranean intake tunnel by vertical risers. The velocity intake caps are 30 ft (9.1 m) in diameter and rest, mushroom-like, on top of 9 ft (2.7 m) diameter risers that vertically descend 110 ft (33.5 m) to connect with the horizontal intake tunnel. The bottom of the horizontal intake cap openings is 10 ft (3.05 m) above the ocean bottom, and 16–inch (40.6–cm) spaced vertical bars are in place around the diameter of the intake openings. The intent of the vertical bars is to reduce the amount of large debris that can enter the intake. The purpose of the cooling water intake design is to minimize the rate of water flow at the entrance to the intakes and thereby minimize the entrainment of marine organisms. The rate of water flow at the edge of the velocity intake caps during normal, continuous power operations is about 0.5 ft per second (0.15 m/sec; 0.3 knots).

Because the structures are offshore and submerged, seals have not been observed entering the intakes, but they are discovered in the forebays of the station. It is unknown whether the horizontal flow rate at the entrance to the intakes is strong enough to sweep seals into the intakes. The animals may swim into the structures in pursuit of prey or by curiosity. Once inside the velocity cap, the rate of water flow increases in the risers and intake tunnel. The accelerating, downward turning flow and the low-light conditions may disorient the seals and may inhibit their escape from the intakes. For an object traveling passively with the water flow, the minimum transit time from the offshore intake velocity cap to the forebay is approximately 80 minutes. A seal that enters the intakes and is unable to find its way out would not be able to survive the transit through the intake tunnel to the plant.

Though Seabrook Station has been in commercial operation since August 1990, no seal takes were known to have occurred prior to 1993, when the remains of two seals were discovered. In 1994, the remains of seven seals were found, and, in 1995, the remains of six to seven were found. In 1996, 12 to 17 animals were taken and, in 1997, 10 seals were taken at the facility. Given that the local abundance of harbor seals is known to be increasing and given that plant operations are scheduled to continue, as yet unmodified, takes are likely to continue to occur in the coming years. The expected number of future takes cannot be estimated at this point, but an examination of past years' takes may illustrate a trend for upcoming years.

Comments and Responses

NMFS published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** on July 24, 1997 (62 FR 39799). A 30-day comment period on the ANPR ended on August 25, 1997. NMFS received several comments on the ANPR.

Comment 1: NMFS should establish specific goals and timetables for any mitigation measures that will be incorporated at Seabrook Station.

Response: If NMFS determines that mitigation measures should be implemented, then Seabrook Station would be required to implement such measures within a prescribed schedule. There are also clear and concise guidelines to be used for the monitoring and reporting of any entrapped seals. A requirement for Seabrook Station to submit a decision on mitigation measure alternatives is included in the proposed rule.

Comment 2: The proposed lethal take of seals over a 5-year period would have a negligible impact on the affected populations.

Response: NMFS concurs. The projected takes of any of the four species of seals appears to be well below any calculated PBR level for the species. NMFS has preliminarily determined that the current levels of take are not likely to adversely effect the species or stock through effects on annual rates of recruitment or survival.

Comment 3: If and when acoustic harassment devices are tested, such testing should be conducted under a scientific research permit as specified under the MMPA.

Response: The testing and use of acoustic harassment devices may require a scientific research permit if such testing results in the taking of marine mammals not authorized by either the Small Take Authorization under consideration or section 101(a)(4) of the MMPA. Implementation of a monitoring program that includes a mitigation requirement to use an acoustic harassment device in order to reduce seal mortality would not require a permit under section 104 of the MMPA if it did not result in the intentional taking of a marine mammal.

Comment 4: Any proposed authorization should include not only harbor seals, but also harp seals (*Phoca groenlandica*), hooded seals (*Cystophora cristata*), and gray seals (*Halichaerus grypus*).

Response: NMFS concurs. Harbor, harp, hooded, and gray seals are all included as species whose take would be authorized under this action.

Description of the Habitat and Marine Mammals Affected by the Activity

A description of the U.S. Atlantic coast environment, its marine mammal abundance, distribution, and habitat can be found in the draft EA on this subject and is incorporated herein by reference. Additional information on Atlantic coast marine mammals can be found in Waring *et al.* (1997). These documents are available upon request (see **ADDRESSES**).

Summary of Potential Impacts

Since 1993, the remains of 37 to 43 seals have been discovered in Seabrook Station's forebays or on the devices used to clean the forebays' condenser intake screens. Human access to the forebays is restricted and visibility is poor. Consequently, intact animals occasionally go undetected in the forebays, and pieces of hide and bones are recovered in the screen washings as the animals decompose, causing uncertainty in the total number of animals taken to date. The remains are turned over to authorized members of the Northeast Marine Mammal Stranding Network for analysis and disposal. The remains of two gray seals and skull fragments of two harp seals and of one hooded seal have been identified. Twenty-seven of the seals have been positively identified as harbor seals. For the animals whose ages could be determined, the majority have been young-of-the-year harbor seals, divided fairly equally between males and females.

It is proposed that the annual authorized takes be limited to a fraction of the PBR level for the harbor seal population. Harbor seals constitute the majority of the animals taken, and the comparatively larger U.S. population size best lends itself to evaluating future trends in the regional seal population. The PBR level for western North Atlantic harbor seals is 1,729. The gray seal, whose regional population is not as large as that of the harbor seal, has a PBR level of 122. Harp and hooded seals do not have a PBR level because the minimum population size in U.S. waters is unknown. The limit for the annual take authorization would be less than 2.0 percent of the PBR level of harbor seals, or approximately 34 seals. Any takes of harbor, gray, harp, and hooded seals would count against the same annual take authorization limit based on a proportion of the harbor seal PBR level. Thus, takes of any of these four seal species would be considered to be a take of a harbor seal.

Mitigation

North Atlantic is presently investigating a number of measures to prevent or reduce the lethal taking of seals at Seabrook Station. To date, no preventative measures have been implemented, but some alternatives warrant further study. Designs of a physical barrier system and an acoustical deterrence array are still being evaluated. These alternatives are being reviewed for practicability with regard to nuclear power safety, costs, and ability to withstand the high energy offshore environment.

It should be recognized that, due to inherent difficulties in designing, constructing, and maintaining a structure or device in the offshore high energy environment of the intakes, a reliable and durable mitigation system is needed. Any chosen mitigation measure must be also economically and technologically feasible as a means to affect the least practicable adverse impact. To ensure that any mitigation method that may be employed is feasible, NMFS proposes to require Seabrook Station to use this authorization period to fully explore any feasible mitigation methods. If a method or combination of methods is found to be feasible, it must also be tested, constructed, deployed, and be operational during the defined schedule that occurs within the 5-year authorization.

If, after North Atlantic conducts the appropriate feasibility studies, it is determined that no mitigation measure is proven to be feasible due to economic, technological, or safety reasons, then at the next renewal of the authorization, NMFS and North Atlantic must explore and undertake steps to promote the conservation of the population of Gulf of Maine seals as a whole. These measures may take the form of studies that examine population trends, migration patterns, or of work that may enhance the survival of young-of-the-year seals.

Monitoring

NMFS proposes to require Seabrook Station personnel to continue their efforts to monitor the station for the presence of entrapped seals. Timely awareness of a taken seal allows for a more comprehensive evaluation on the level of takes and on the characteristics of each seal that occurs. Seals that go undetected in the intake circulating water system can decompose and fail to be noticed during examination of screen wash debris. Frequent and regular inspections of various parts of the intake circulating water system allow for a greater chance of detecting a seal, thus providing a better estimate on the total number of animals that are taken.

This monitoring must include continuing the twice daily visual inspections of the circulating water and service water forebays as well as the daily visual inspection of the outer transition structure. Screen washings must be conducted at least twice weekly. Examination of the screen wash debris must be conducted to determine if any seal remains are present.

Reporting Requirements

Seal takes would be required to be reported to NMFS by both oral and written notification. NMFS must be notified by telephone within 24 hours of any seal takes that have occurred and by letter within 15 business days. The written notification must contain the results from any examinations conducted by qualified members of the Marine Mammal Stranding Network as well as any information relating to the take.

National Environmental Policy Act (NEPA)

A draft EA has been prepared for this proposed action. A copy of the EA is available upon request (see **ADDRESSES**).

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory

Flexibility Act. If implemented, this rule will affect only North Atlantic Energy, and an undetermined number of contractors providing services related to plant operation, including the monitoring of impacts on marine mammals. Although North Atlantic Energy, because it generates in excess of 4 million megawatt-hours, by definition, is not a small business, some of the affected contractors may be small businesses. The economic impact on these small businesses is dependent upon the award of contracts for such services. The economic impact cannot be determined with certainty, but will either be beneficial or have no effect, directly or indirectly, on small businesses. As such, a regulatory flexibility analysis is not required.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget under control number 0648–0151. This is the requirement for an annual report. Requirements for reporting on seals and seal parts found and on mitigation measures taken, are not subject to the PRA since they apply only to a single respondent and are not in a rule of general applicability.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately 80 hours, including the time for gathering and maintaining the data needed and for completing and reviewing the collection of information. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, should be forwarded to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: August 18, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.3, a new definition for "Administrator, Northeast Region" is added in alphabetical order to read as follows:

§ 216.3 Definitions.

* * * * *

Administrator, Northeast Region means Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298.

* * * * *

3. Subpart L is added to read as follows:

Subpart L—Taking of Marine Mammals Incidental to Power Plant Operations

Sec.

Subpart L—Taking of Marine Mammals Incidental to Power Plant Operations

§ 216.130 Specified activity, specified geographical region, and incidental take levels.

(a) Regulations in this subpart apply only to the incidental taking of harbor seals (*Phoca vitulina*), gray seals (*Halichaerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) by U.S. citizens engaged in power plant operations at the Seabrook Station nuclear power plant, Seabrook, NH.

(b) The incidental take of harbor, gray, harp, and hooded seals under the activity identified in this section is limited to 2 percent of the potential biological removal level (see definition in 50 CFR 229.2) for harbor seals for each year of the authorization. Takes of any of these four species of seals would be evaluated as a take of a harbor seal for the purposes of this take limit definition.

§ 216.131 Effective dates.

Regulations in this subpart are effective from October 1, 1998, until October 1, 2003.

§ 216.132 Permissible methods of taking.

Under a Letter of Authorization (LOA) issued to North Atlantic Energy Services Corporation for Seabrook Station, the North Atlantic Energy Services Corporation may incidentally, but not intentionally, take the marine mammals specified in § 216.130 in the course of operating the station's intake cooling water system.

§ 216.133 Prohibitions.

Notwithstanding takings authorized by § 216.130(a) and by the Letter of Authorization, issued under § 216.106, the following activities are prohibited:

(a) The taking of harbor seals, gray seals, harp seals, and hooded seals that is other than incidental.

(b) The taking of any marine mammal not authorized in this applicable subpart or by any other law or regulation.

(c) The violation of, or failure to comply with, the terms, conditions, and requirements of this part or a Letter of Authorization issued under § 216.106.

§ 216.134 Mitigation requirements.

The holder of the Letter of Authorization is required to report, within 6 months from the issuance of a final rule, to NMFS, on possible mitigation measures effecting the least practicable adverse impact on the seals specified in § 216.130. The report shall also include a recommendation of which such measures, if any, the holder could feasiblely implement. After submission of such report, NMFS shall determine whether the holder of the LOA must implement measures to effect the least practicable adverse impact on the seals. If NMFS determines that such measures must be implemented then NMFS shall specify, after consultation with the holder of the LOA, the schedule and other conditions for implementation of the measures. Implementation of such measures must be completed no later than 42 months after the date of issuance of the final

rule or at the closest scheduled plant outage before or after that date. Failure of the holder of the LOA to implement such measures in accordance with the NMFS specifications may be grounds to invalidate the LOA.

§ 216.135 Monitoring and reporting.

(a) The holder of the Letter of Authorization is required to cooperate with NMFS and any other Federal, state, or local agency monitoring the impacts of the activity on harbor, gray, harp, or hooded seals.

(b) The holder of the Letter of Authorization must designate a qualified individual or individuals, approved in advance by the Northeast Regional Administrator, NMFS, to observe and record any marine mammals that occur in the intake circulating system, including the outer transition structure, both forebays, and any marine mammals observed as a result of screen washings conducted.

(c) The holder of the LOA must conduct at least two daily visual inspections of the circulating water and service water forebays.

(d) The holder of the LOA must conduct at least daily inspections of the outer transition structure.

(e) The holder of the LOA must conduct screen washings at least twice weekly. Examination of the screen wash debris must be conducted to determine if any seal remains are present.

(f) The holder of the LOA must report orally to the Northeast Regional Administrator, NMFS, by telephone or other acceptable means, any seals or seal parts or other marine mammals or marine mammal parts found in the locations specified in § 216.135(b) or at any other locations on the property of the holder of the LOA, or through the inspection required by § 216.135(b) through (e). Such oral reports must be made within 24 hours of finding the seal or seal parts, or other marine mammal or marine mammal parts.

(g) The holder of the LOA must arrange to have a necropsy examination performed by qualified individuals on any seal or seal parts or marine mammal or marine mammal parts recovered through monitoring as specified under § 216.135(b) through (e).

(h) The holder of the LOA must also provide written notification to the Northeast Regional Administrator, NMFS, of such seals or seal parts or marine mammal or mammal parts found within 15 business days from the time of the discovery. This report must contain the results of any examinations or necropsies of the marine mammals as well as any other information relating to the circumstances of the take.

(i) An annual report on mitigation measures to effect the least practicable adverse impact on the seals that have been implemented or are being considered for implementation pursuant to the requirements specified at § 216.134 must be submitted to the Northeast Regional Administrator, NMFS, within 30 days prior to the expiration date of the issuance of the LOA.

§ 216.136 Renewal of the Letter of Authorization.

(a) A Letter of Authorization issued under § 216.106 for the activity identified in § 216.130(a) may be renewed annually provided the following conditions and requirements are satisfied:

(1) Timely receipt of the reports required under § 216.135, which have been reviewed by the Northeast Regional Administrator, and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in § 216.130(b) will not be exceeded; and

(3) A determination that research on mitigation measures required under § 216.134(a) and the Letter of Authorization have been undertaken.

(b) If the species' annual incidental take authorization is exceeded, NMFS will review the documentation submitted under § 216.135, to determine that the taking is not having more than a negligible impact on the species or stock involved. If such taking is determined to be not having more than a negligible impact on the species or stock involved, the LOA may be renewed provided other conditions and requirements specified in § 216.136(a) are satisfied, and provided that any modifications of the LOA that may be required are done pursuant to § 216.137.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the **Federal Register** within 30 days of issuance.

§ 216.137 Modifications to the Letter of Authorization.

(a) In addition to complying with the provisions of § 216.106, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 216.136, without modification, is not considered a substantive modification.

(b) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.130, the Letter of Authorization issued pursuant to § 216.106, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. Notification will be published in the **Federal Register** subsequent to the action.

§§ 216.138—216.139 [Reserved]

[FR Doc. 98–22778 Filed 8–24–98; 8:45 am]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 080798B]

Pacific Fishery Management Council; Public Hearings

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

ACTION: Public hearings; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) will convene six public hearings on Draft Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and Draft Amendment 8 to the Northern Anchovy Fishery Management Plan (NA FMP) and its draft supplemental environmental impact statement (draft SEIS).

DATES: Written comments will be accepted until September 9, 1998. The hearings will be held from September 8 to September 10, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Comments should be sent to Mr. Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201; telephone (503) 326–6352. Written comments sent to the Council should be received by Wednesday, September 9, 1998, to assure time for copying and distribution before final consideration of the amendments by the Council. Copies of the draft amendments and the anchovy SEIS are available from the Council office.

Comments may also be provided during the Council meeting, September 14–18, 1998, at the Red Lion

Sacramento Inn, 1401 Arden Way, Sacramento, CA.

The hearings will be held in California, Washington, and Oregon. See **SUPPLEMENTARY INFORMATION** for specific hearing locations and for special accommodations.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, at (503) 326–6352.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on Draft Amendment 11 to the PCGF FMP and Draft Amendment 8 to the Northern Anchovy NA FMP and the associated draft SEIS. Both of these amendments contain proposed measures to address the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act.

Draft Amendment 11 proposes to redefine "overfishing," "overfished," "optimum yield," and other terms; and would revise the procedures for setting annual harvest levels. The amendment would describe and identify essential fish habitat and establish procedures for implementing regulations to minimize adverse effects of fishing on such habitat. The amendment would also identify procedures for implementing regulations to reduce bycatch and to establish permits for fishing for or processing groundfish should the Council determine that additional permit requirements would be beneficial. The amendment would also authorize reserving a portion of the acceptable biological catch for use in scientific research.

In addition, the Council proposes to amend the NA FMP to add Pacific sardine, Pacific (chub) mackerel, jack mackerel, and market squid to the management unit. The NA FMP divides the species into two general categories: (1) Actively managed species, those that require a limit on catch established by Federal regulations, and (2) monitored only species, those that are adequately managed without Federal regulatory measures on catch limits. The NA FMP provides for moving species from one category to another as biological and economic circumstances change by means of a framework process. The name of the NA FMP would be changed to the Coastal Pelagics Fishery Management Plan. The amendment would also redefine "overfishing," "overfished," "optimum yield," and other terms; and would revise the procedures for setting annual harvest levels. The amendment would describe and identify essential fish habitat and establish procedures for implementing regulations to minimize adverse effects of fishing on such habitat.

Dates, Times, and Locations

The public hearings will be held on:

Tuesday, September 8, 1998, 6:00 p.m., at the Doubletree Hotel, 1929 Fourth Street, Eureka, CA;

Tuesday, September 8, 1998, 6:00 p.m., at the California Department of Fish and Game, 330 Golden Shore, Suite 50, Long Beach, CA;

Wednesday, September 9, 1998, 6:00 p.m., at the California Department of Fish and Game, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA;

Wednesday, September 9, 1998, 6:00 p.m., at the NMFS Regional Office, 7600 Point Way NE, Building 9, Seattle, WA;

Thursday, September 9, 1998, 6:00 p.m., at the Red Lion Inn, 400 Industry Street, Astoria, OR; and

Friday, September 11, 1998, 2:00 p.m., at the Holiday Inn, 400 North Coast Highway, Newport, OR.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

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

Dated: August 14, 1998.

Bruce Morehead,

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

[FR Doc. 98–22831 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 164
Tuesday, August 25, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Yellow Band Mine; Dillon Ranger District; Beaverhead County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to evaluate the environmental effects of a proposed mine operation, and to ensure that reasonable, practicable measures are incorporated into the mine plan for protection and reclamation of surface resources.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than September 11, 1998.

ADDRESSES: Send written comments to Deborah L.R. Austin, Forest Supervisor, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725–3572.

FOR FURTHER INFORMATION CONTACT: Katie Bump, Environmental Analysis Team Leader, Dillon Ranger District, at the above address, or phone: (406) 683–3955.

SUPPLEMENTARY INFORMATION: The Forest Service will process a proposed plan of operations for a small-scale open pit mine and cyanide heap leaching facility, subject to constraints given by applicable laws and policies, and in the 1986 Beaverhead National Forest Land and Resource Management Plan.

The EIS will examine the effects of the proposal and alternatives. The primary purpose of this analysis is to evaluate the environmental effects of the proposed mine operation, and ensure that reasonable, practicable measures are incorporated into the mine plan for protection and reclamation of surface resources. The Forest Service will approve the proposal if it complies with applicable legal requirements.

The mine was proposed by Yellow Band Mines Inc. in T. 6 S. R. 11 W. Sec. 2 SE MPM, in the French Creek drainage of the southeast Pioneer Mountains, about 14 miles northwest of Dillon. The project would involve disturbing no more than 5 acres at a time in the mine area, and a cyanide heap leach facility on less than 5 acres.

Scoping for the proposed action began with parties on the Forest Service and State of Montana Dept. of Environmental Quality mailing lists being notified by mail, in addition to news releases. A public field tour of the mine site was held August 7. Copies of the proposed mining plan of operations are available on request.

Some potential issues have been identified to date. The mine is located within the municipal watershed of the City of Dillon. Possible contamination of underground and surface water by cyanide from the leaching process is a concern. Sediment from areas disturbed by mine operations is also a concern in the drainage; French Creek is habitat for a sensitive fish species, westslope cutthroat trout. The mine area is also habitat for a sensitive plant species, Lemhi beardtongue. Bats are present in at least one of the mine openings. Road safety on the Forest Road below the mine area is a concern. Noxious weeds are present in the mine area. French Creek Cave is just north of the mine area.

The operator has applied for a license to operate a cyanide facility, and a Montana Pollution Discharge Elimination System (MPDES) permit to the State of Montana Department of Environmental Quality.

Public participation is important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues identified above. People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) during the scoping process and (2) during the draft EIS comment period.

During the scoping process, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species. The agencies invite written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

In addition to the proposed action, a range of alternatives will be developed in response to issues identified during scoping. One of these will be the "no action" alternative, in which the mine would not be developed. The Forest Service will analyze and document the direct, indirect, and cumulative effects of all alternatives.

The Forest Service will continue to involve the public and will inform interested and affected parties as to how they may participate and contribute to the final decision. Another formal opportunity for response will be provided following completion of a draft EIS.

The draft EIS should be available for review in December, 1998. The final EIS is scheduled for completion in June, 1999.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 533 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made

available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The Beaverhead-Deerlodge Forest Supervisor is the responsible official who will make the decision. She will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: August 17, 1998.

Deborah L.R. Austin,

Forest Supervisor, Beaverhead-Deerlodge National Forest.

[FR Doc. 98–22734 Filed 8–24–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Upper Charley Subwatershed Ecosystem Restoration Projects Umatilla National Forest, Garfield County, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) on a proposed action to implement ecosystem restoration projects, designed to promote healthy watershed conditions, within the Upper Charley subwatershed. The project area is located on the Pomeroy Ranger District approximately 10 air miles southeast of Pomeroy, Washington.

Proposed project activities consist of in-channel fish habitat projects, hydrologic stability projects (road obliteration, road re-alignment/reconstruction), wildlife enhancement projects, range improvements, noxious weed treatments, recreation opportunities, landscape prescribed fire, and restoration of forest stand structure/composition using a variety of silvicultural treatments including commercial timber harvest. The proposed action is designed to reduce risks to ecosystem sustainability, prevent further degradation of forest health, reduce risks of catastrophic wildfire, improve or maintain aquatic and terrestrial habitat, manage access to protect wildlife, and provide some economic return to local economies.

The EIS will tier to the 1990 Land and Resource Management Plan FEIS for the Umatilla National Forest, which provides overall guidance for forest management of the area.

DATES: Written comments concerning the scope of the analysis should be received on or before September 24, 1998.

ADDRESSES: Send written comments and suggestions to the Responsible Official, Monte Fujishin, District Ranger, Pomeroy Ranger District, 71 West Main Street, Pomeroy Washington, 99347.

FOR FURTHER INFORMATION CONTACT: Randall Walker, Project Team Leader, Pomeroy Ranger District. Phone: (509) 843–1891.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 7,650 acres within the Umatilla National Forest in Garfield County, Washington. It is within the boundary of the Upper Charley subwatershed of the Asotin watershed. The legal description of the decision area is as follows: Sections 11–14, 22–28, and 33–36 Township 9 North, Range 42 East; and Sections 8, 17–20 and 30 Township 9 North, Range 43 East, and Sections 3 and 4 Township 8 North, Range 42 East, W.M. surveyed. All proposed activities are outside the boundaries of any roadless or wilderness areas.

Fish habitat projects include in-channel restoration, pond construction, and stabilization of streambanks. Proposed hydrologic stability projects include 14.04 miles of road obliteration, 13 miles of road realignment/reconstruction, and revegetation of cut and fill slopes. Snag creation, construction of cisterns for non-big game species and prescribed burning for elk habitat are proposed to enhance wildlife habitat. Noxious weed treatments to help restore biodiversity and productivity of native plant species are also included in the proposed action. A variety of silvicultural methods would treat approximately 4,492 acres within the area. Approximately 4.3 miles of temporary road construction is proposed to access timber harvest areas (all temporary roads would be obliterated following completion of sale activities), and approximately 7.71 miles of existing non-system roads would be added to the transportation system for future project use. This proposal also includes prescribed burning within harvest units (3,554 acres) and outside of harvest units (2,000 acres) to reduce the potential for future wildfires, prepare sites for regeneration, enhance wildlife habitat and maintain forest health by bringing fuel levels closer to their historic levels.

An estimated 18.2 million board feet of timber would be commercially harvested on approximately 3,554 acres. Proposed silvicultural treatments are briefly described as follows:

Precommercial Thinned: Saplings would be thinned to a tree per acre variable spacing to promote growth and provide a sustainable species composition. This treatment is proposed on 938 acres.

Thin from Below: Thinning of stand to recommended stocking level (listed by residual square feet of basal area per acre). This would be accomplished by leaving the largest and healthiest trees on each microsite. This treatment is proposed on 885 acres.

Uneven-aged Management: Stand densities would be reduced to 60–100 square feet of basal area per acres by removing the least vigorous trees greater than 7 inches DBH. This treatment is proposed on 2,176 acres.

Shelterwood Group Selection: Windfirm trees favoring western larch and ponderosa pine would be retained as groups and individuals. Openings from one-half to four acres would occur in areas of insect and disease pockets and low vigor fir thickets. This treatment is proposed on 493 acres.

For all harvest treatments existing snags and large down wood would be left on site. Ponderosa pine and western larch would be the preferred species for leave trees. All trees greater than 21 inches DBH would be left in the ponderosa pine and Douglas-fir biophysical groups (both are below their historic range of variability). Thinning of saplings would occur after harvest.

The proposed action will tier to the FEIS and Umatilla Forest Plan, as amended, which provides goals, objectives, standards, and guidelines for the various activities and land allocations on the forest. In the project/analysis area there are eight designated management areas (MAs): A6, A9, C1, C3, C3A, C4, C5 and E2. Management area A6–Developed Recreation is managed to provide recreation opportunities that are dependent on the

development of structural facilities for user convenience (no timber harvest is allowed). A9–Special Interest Area is managed to preserve and interpret areas of significant cultural, historical, geological, botanical, or other special characteristics for educational, scientific and public enjoyment purposes (no timber harvest allowed). C1–Dedicated Old Growth is managed to provide and protect sufficient suitable habitat for wildlife species dependent upon mature and/or overmature forest stands and promote a diversity of vegetative conditions for such species (no timber harvest allowed). C3–Big Game Winter Range is managed to provide high levels of potential habitat effectiveness and high quality forage for big game species (timber harvest is allowed). C3A–Sensitive Big Game Winter Range is managed to provide high levels of potential habitat effectiveness (timber harvest allowed only under catastrophic conditions). C4–Wildlife Habitat is managed to provide high levels of potential habitat effectiveness for big game and other wildlife species with emphasis on size and distribution of habitat components (timber harvest is allowed). C5–Riparian is managed to maintain or enhance water quality, and produce a high level of potential habitat capability for all species of fish and wildlife within the designated riparian habitat areas while providing for a high level of habitat effectiveness for big game (limited timber harvest is allowed). E2–Timber and Big Game is managed to emphasize production of wood fiber (timber), encourage forage production, and maintain a moderate level of big game and other wildlife habitat (timber harvest is allowed). Timber harvest for the proposed action would only take place in management areas C3 and E2.

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

Preliminary Issues: Tentatively, the preliminary issues identified are briefly described below:

1. Wildlife Habitat—What effects would timber harvest and prescribed burning have on big game and non-game habitat?

2. Ecosystem Sustainability—How would the proposed activities effect ecosystem sustainability and forest health?

3. Air Quality—What effects would landscape prescribed burning have on air quality?

4. Water Quality/Riparian Habitat—How would water quality, flow, temperature, timing and riparian habitat conditions be effected by the proposed activities?

5. Threatened, Endangered and Sensitive (TES) Species—What effect will the proposed activities have on TES species and what opportunities exist to improve habitat?

6. Road Management—What opportunities exist to obliterate roads and reduce road density in the subwatershed?

7. Noxious Weeds—What effects would the proposed activities have on noxious weed populations?

This list will be verified, expanded, or modified based on public scoping and interdisciplinary review of this proposal.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). Initial scoping began with the project listing in the 1997 Winter Edition of the Umatilla National Forest's Schedule of Proposed Actions. A public meeting will be scheduled for September, 1998 to discuss the project, other meetings will be scheduled as needed. This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, and other individuals or organizations who may be interested in, or affected by the proposal. This input will be used in preparation of the Draft EIS. The scoping process includes:

1. Identifying potential issues.

2. Identifying major issues to be analyzed in depth.

3. Identifying issues which have been covered by a relevant previous environmental analysis.

4. Considering additional alternatives based on themes which will be derived from issues recognized during scoping activities.

5. Identifying potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available to the public for review by January, 1999. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is important that those interested in the management of the Umatilla National Forest participate at that time.

The Final EIS is scheduled to be completed by May, 1999. In the Final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the adequacy of the Draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Forest Service is the lead agency. Monte Fujishin, District Ranger, is the Responsible Official. As the Responsible Official, he will decide which, if any, of

the proposed projects will be implemented. He will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: August 17, 1998.

Monte Fujishin,

District Ranger.

[FR Doc. 98–22736 Filed 8–24–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

National Park Service

USDA, Forest Service, USDI, National Park Service; Notice of Transfer of Administrative Jurisdiction, Coconino National Forest and Walnut Canyon National Monument

SUMMARY: The Forest Service previously had administrative jurisdiction over 1,279 acres, more or less, as depicted on the map entitled, "Boundary Proposal—Walnut Canyon National Monument," numbered 360/80,010, and dated September 1994. The National Park Service formerly had administrative jurisdiction on 54 acres, more or less, as shown on the same map. Notice is hereby given that, pursuant to the provisions of Section 208 of Pub. L. 104–333, 110 Stat. 4093, administrative jurisdiction on the 1,279 acres is now in the National Park Service, and administrative jurisdiction on the 54 acres is now in the Forest Service. Both transfers are subject to prior existing rights and applicable laws and regulations. The specific lands and/or interests, subject to this notice, include both the surface and minerals on 1,279 acres, more or less, and 54 acres, more or less.

SUPPLEMENTARY INFORMATION: The maps and other documents associated with this transfer of lands and minerals may be reviewed at the Intermountain Land Resources Program Center, 1220 South St. Francis Drive, Santa Fe, New Mexico 87504, and at Walnut Canyon National Monument Headquarters, 6400 North Highway 89, Flagstaff, Arizona 86004. The same materials are available at the USDA, Forest Service, Regional Office, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102, and Coconino National Forest, 2323 Greenlaw Lane, Flagstaff, Arizona 86004.

Dated: May 5, 1998.

Eleanor Towns,

Regional Forester, USDA, Forest Service, Region 3.

Dated: July 17, 1998.

John E. Cook,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 98–22723 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Approval of Triangular Involving Commodities Covered by a U.S. Import Certificate.

Agency Form Number: None.

OMB Approval Number: 0694–0009.

Type of Request: Extension of a currently approved collection of information.

Burden: 1 hour.

Average Time Per Response: 30 minutes per response.

Number of Respondents: 1.

Needs and Uses: The triangular symbol will be stamped on the certificate as notification to the government of the exporting country that the U.S. importer is uncertain whether the items will be imported into the U.S. or knows that the items will not be imported into the U.S., but that, in any case, the items will not be delivered to any other destination except in accordance with the EAR. This procedure was developed in an effort to increase the effectiveness of controls over international trade in strategic commodities, ensuring that they will not be delivered to any other destination except in accordance with export control regulations.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: August 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22726 Filed 8–24–98; 8:45 a.m.]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region—Gear Identification Requirements.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 24,518 hours.

Number of Respondents: 3,253 (multiple requirements).

Avg. Hours Per Response: One minute to mark gear.

Needs and Uses: This collection is under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The regulations specify that federal permit holders using specified fishing gear be marked with the vessels official identification number, Federal permit number, tag number, or some other specified form of identification. The regulations further specify how the gear is to be marked (e.g., location and visibility). This information is used for enforcement purposes and for the identification of gear concerning damage loss or civil proceedings.

Affected Public: Businesses or other for-profit organization, individuals.

Frequency: Recordkeeping.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce,

Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 19, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22732 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Cooperative Charting Program.

Agency Form Number(s): NOAA Form 77–4 and 77–5.

OMB Approval Number: 0648–0022.

Type of Request: Extension of a currently approved collection.

Burden: 45,000 hours.

Number of Respondents: 3,000 (multiple responses).

Avg. Hours Per Response: 3 hours.

Needs and Uses: The National Ocean Service (NOS) produces the official nautical charts of the United States. Of prime concern is the safe navigation on our nation's waterways, of both commercial and recreational vessels. NOS has partnered with the United States Power Squadrons and the United States Coast Guard Auxiliary to request that their members provide chart correction data since both nature forces and the activities of man cause periodic changes. The information is used by NOS cartographers to maintain and prepare new editions of its charts.

Affected Public: Not-for-profit institutions, individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 19, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22733 Filed 8–25–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980723189–8189–01]

RIN 0648–ZA46

Financial Assistance for a National Ocean Service Intern Program

AGENCY: Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS).

ACTION: Notice.

SUMMARY: The National Ocean Service announces the availability of Federal Assistance to conduct an intern program. The need for wise stewardship of the coastal environment is increasing and with it a need to enlarge the pool of skilled environmental scientists and managers and at the same time increase the diversity of this pool. The National Ocean Service (NOS) recognizes that there is a shortage of skilled environmental scientists and managers who are aware of and utilize the techniques and technologies required by NOAA's stewardship programs and is trying to remedy the situation through an Intern program. The programmatic objective of this intern program is to provide unique opportunities for cooperative study, research, and development that would be of major benefit in advancing the number and diversity of skilled engineers, scientists, and managers in the environmental arena who are familiar with the techniques and technologies used by NOS. This solicitation is to find a partner to assist NOAA in cooperatively managing this intern program. This partner would be responsible for locating candidate Interns, assistance in their selection, and administration of the awards to the Interns. NOAA would identify the intern opportunities, assist in the final selection of the candidate interns, and provide space, technical guidance and training to the Interns during their period of internship at government facilities. This program will start in FY99 using initial funding from FY98. It is anticipated that additional FY99 funds will be used to expand the program to increase the number of interns.

DATES: Applications must be received no later than 5:00 p.m., Eastern Daylight Savings Time, October 9, 1998.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the application including all information required by the application kit. Applications must be mailed to: NOS Special Projects Office, ATTN: NOS Intern Program, ORCA1, 1305 East-West Highway 9th Floor, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Grose, NOAA—ORCA1, 1305 East-West Highway 9th Floor, Silver Spring, MD 20910 (301) 713–3000 x132.

SUPPLEMENTARY INFORMATION:

Background

The National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) is expanding its institutional commitment to Coastal Stewardship. NOS also desires to continue its science and technology leadership with respect to addressing coastal environments and issues. NOS has identified several areas of interest that will be pursued in environmental management, research and development in the coastal zone, and mensuration of the environment which are necessary to support active stewardship. These areas include, but are not limited, to:

Integrated coastal zone management, resource protection and restoration, remote sensing of coastal and benthic habitats, shallow water and coastal mapping, geodesy, marine navigation, delineation of essential habitats, determination of environmental degradation and damage, habitat remediation, and applied research and development on environmental, economic, and demographic issues.

A primary objective of NOS is to plan and support active Stewardship of coastal and marine resources at a time of increased pressures on these resources and decreasing funds for programs. NOS does not have the staff nor resources to accomplish this objective in a closed bureaucracy. Thus, part of the strategy is to transfer NOS's technologies, techniques, and methods to the community-at-large, especially the next generation of resource scientists and managers both to increase their capability and to increase their

diversity. Many of NOS's programs and activities are unique and need to be transferred to the non-Federal community. An effective mechanism to affect this transfer is through the establishment of an Internship Program. This cooperative agreement between NOAA and the recipient will promote these objectives and establish the means to accomplish them in a manner beneficial to both NOAA and the recipient.

Authority

Statutory authority for these awards is provided under 15 U.S.C. 1540 [Cooperative Agreements]; {"The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, may enter into cooperative agreements and other financial agreements with any nonprofit organization to—

(1) Aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs; and

(2) Solicit private donations for the support of such activities."}

Catalog of Federal Domestic Assistance (CFDA)

This NOS Intern Program is listed in the Catalog of Federal Domestic Assistance under Number P11.480.

Program Description

The proposed cooperative program will be administered by the Recipient in response to intern opportunities offered by NOAA.

The recipient shall provide environmental Interns (Associates) to work on individual projects in response to internship opportunities established by the program offices within NOS. The Associates provided must be college students or recent graduates (Bachelors, Masters, Ph.D., JD), with a college degree in areas such as environmental science, earth science, environmental engineering, geodesy, chemistry, physics, oceanography, biology, fishery science, geography, resource economics, risk assessment, policy analysis, computer science, and law. Candidate associates must be U.S. citizens. There is not a fixed number of Internships per year under this program. The actual number will depend on opportunities and funding identified by offices within NOS. The minimum number will be one, the maximum may exceed 40.

Internships shall be located at Silver Spring, MD, Seattle, WA, and other NOS facilities as designated and Associates shall be required to relocate (if necessary) to such locations for the duration of the internship. Some funds for relocation expenses may be available for selected internships. Associates will be provided individual assignments for each period of internship and on an as needed basis (per project). These projects shall be designed to provide learning experiences for the Associates that will make them competitive for employment opportunities in both the public and private sector and to transfer unique and specialized technologies or procedures from NOAA to the Public and Private sectors.

Under this Cooperative Agreement, the Recipient shall make extra effort in advertising and promoting these internships to Native Americans, Hispanic, African, Asian and other minorities (including women) at many levels so as to provide enhanced opportunities under NOAA's Diversity Plan.

Associates will work full time for a period of approximately three to twelve months. The actual duration will vary based on the specific objectives of each internship opportunity as determined by the Project Officer and Technical Advisor. Internships can be renewed, but shall not exceed 24 months for any individual Associate as either a single or multiple internships.

Final details for individual assignments shall be developed in consultation with the Project Officer or the individual Technical Advisor in accordance with the "Statement of Substantial Involvement between NOAA and the Recipient". In accordance with the substantial involvement clause, the Project Officer and the Technical Advisor shall be responsible for providing guidance on the specific tasks required for the satisfactory completion of the internship by the Associate. As part of the Internship, each Associate shall develop and carry out an individual research project that furthers the objectives of the program in to which he or she is assigned. These projects shall be developed under the direction of the Project Officer or Technical Advisor.

Description of the Intended Operation of the Intern Program for Each Internship

1. The technical advisor shall document the intern opportunity and include the following information:

(a) Name of the office offering the opportunity/Project.

(b) Name of the contact person in this office—(technical advisor), address, telephone & email address.

(c) Background of the Project—description of the project/program within which the internship is offered.

(d) Objectives of the Project relative to the Intern.

(e) Description of what the intern will do (duties).

(f) Description of the benefits to the intern from the internship (what training will occur, be offered, etc.).

(g) Minimum qualifications for the internship (major, courses, degree).

(h) Desired background of the Intern and special skills (e.g. diving certification) required, if any.

(i) Special conditions/requirements (overtime, sea duty, travel, etc.) [Funds to cover any additional costs incurred by these conditions must be included in the obligation].

(j) Desired starting date and duration of the opportunity.

(k) Stipend level (and relocation expense if available).

2. This description, along with an obligation of required funds (Stipend + benefits + travel + overhead + fees) in the form of a completed CD–435, will be transmitted to the Project officer.

3. The project officer shall review the documentation of the intern opportunity, and, if acceptable, shall implement an increment to the master grant and transmit the description of the Intern opportunity to the Recipient.

4. Recipient shall advertise the available Intern position, and from those expressing an interest, pre-select a pool of 5–10 candidates based on the requirements of the internship, and submit this candidate list along with resumes of the candidates to the Project Officer and Technical advisor. This submittal shall occur within 30 calendar days of receipt of the request and documentation from the Grantor.

5. Within 14 days of receipt of the pool of candidates, the Technical Advisor shall notify the Project Officer of his/her ranking of the acceptable candidates. The Project Officer shall review the ranking, approve, and forward it to the Recipient. If no candidates are acceptable, the Recipient shall be requested to re-advertise the opportunity.

6. Upon selection of a candidate, the Recipient shall make arrangements with the selected candidate for employment and, in consultation with the Grantor, set a reporting date for the associate.

7. The Associate shall carry out the Internship.

Definitions

- *Associate*—Individual who will be provided with and perform internships under this cooperative agreement.
- *Project Officer*—The NOAA Project Officer is that individual specifically named by NOAA to manage this program.

• *Technical Advisor/Monitor*—The NOAA employee responsible for providing day-to-day guidance on the specific project(s) assigned to the associate and for the associate's individual development and progress.

• *Intern Opportunity/Project*—An opportunity for an internship which is documented and has funds obligated for its costs. In general, these opportunities will be assignments within existing NOS programs and ongoing projects and not something created uniquely for this Agreement.

Anticipated Stipend Levels (per annum) and general background requirements of internships:

1. $22,000 ($10.58/hr)	2 full years of academic study.
2. $25,000 ($11.02/hr)	4 full years of academic study (BA, BS degree).
3. $27,000 ($12.98/hr)	4 years and superior academic standard (top 1/3, 2.9/4 GPA overall, & 3.5/4 GPA in Major.
4. $32,000 ($15.38/hr)	60 hrs Graduate level or Masters degree.
5. $39,000 ($18.75/hr)	All requirements for PhD met.

• Unless included in the Intern opportunity description, overtime is not anticipated. In the event that overtime is required, the duration of the internship shall be reduced or additional funds shall be obligated or Compensatory time shall be given in lieu of overtime to pay for it.

• In the event that an Associate terminates or is terminated (for cause), the Recipient shall make every opportunity to refill the internship and, if not practicable, credit the Grantor with the un-spent balance of the funds. These funds shall be used to supplement internships under the direction of the Project Officer.

Note: If the Associate is to be an "independent contractor" rather than an employee of the Recipient under the Cooperative Agreement, the stipend shall be adjusted to cover the additional required Self Employment fees.

Funding Availability

NOS funding for this Program will be a minimum of $40,000 from FY98 funds to a maximum of $1,500,000 during the first year. Additional follow-on years, up to a maximum of 2 without re-competition, may be funded to a maximum of $1,500,000 per year. Each internship or group of internships, beyond the first, shall be funded as a separate amendment to the master agreement. There is no set timetable for announcement of Internships and they may occur throughout the year.

Matching Requirements

Cost sharing is not required for the internship program.

Type of Funding Instrument

The NOS Intern Program shall be awarded as a Cooperative Agreement since NOAA anticipates that there will be substantial involvement between NOS, the Recipient, and the Interns (after their selection).

Statement of Substantial Involvement Between NOAA and the Recipient

In carrying out the work program set forth in the project description, NOS and the Recipient agree to meet the programmatic objective of this agreement as stated.* NOS involvement will consist of the following activities:

1. NOS will provide descriptions of available intern opportunities with required academic backgrounds and job skills.

2. NOS will participate in review and rating panels and will interview and make final selections from lists of eligible candidates that are provided by the Recipient.

3. NOS will provide a technical monitor to interact with each Associate who will be chosen to work on a given project. The technical monitor shall provide technical guidance and support to the Associate in developing the skills necessary to perform the work in the chosen environmental arena.

4. NOS shall provide liaison to interact with the Recipient and Senior Management on the progress of meeting the programmatic objectives of this Cooperative Agreement.

Eligibility Criteria

This solicitation is open to any Non-Profit organization.

Award Period

The initial Master Agreement shall be for a period of one (1) year. This agreement may be renewed annually for up to 2 continuation years with the mutual consent of both parties. NOAA shall consider continued funding for the project upon: (a) satisfactory progress toward the stated agreement goals, and the determination by NOAA that the continuation of the program would be in the best interest of the Government; and (b) availability of funds. The annual awards must have scopes of work that can easily be separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available to the applicant. This submission in no way obligates NOAA to extend this agreement, nor is this paragraph to be interpreted as a promise that future funds will be available.

Indirect Costs

Funds to support the NOS Intern program shall be given directly to the Recipient. Administrative or indirect costs shall be negotiated as part of the Master Agreement award and shall be based on and paid on a per Internship basis. These costs may be fixed, time dependent, Intern stipend dependent, or a combination as proposed by the Recipient. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Stipend levels, and benefits may be adjusted for COLA for each continuation year.

Application Requirements

Each Prospective Recipient shall submit a package containing completed:

1. SF–424 (including SF–424A & SF–424B),

2. A budget with necessary supporting details. This budget should be based on a hypothetical intern opportunity at a stipend level of $25,000 per year, with an allowance for required field trip travel of $2,000, and a relocation allowance of $500. Because it is anticipated that this agreement will be extended to include additional internships beyond the first, supporting information should be included to determine the full cost to the government of additional internships which may have any of the suggested stipend levels, have durations ranging 3 to 12 months, and be with or without relocation or travel allowances. This information should also contain details on what services and benefits are included (i.e. sick leave, tax withholding, insurance, etc.) and their

* Summary Section: "The programmatic objective of this intern program is to provide unique opportunities for cooperative study, research, and development that would be of major benefit in advancing the number and diversity of skilled engineers, scientists, and managers in the environmental arena who are familiar with the techniques and technologies used by NOS."

estimated cost to interns; as well as, what, if any, allowances are made for vacation leave and/or sick leave. Holidays observed by the office hosting the intern will be considered paid holidays.

3. Curriculum Vitae for each Principal Investigator and critical senior staff assigned to the program,

4. Copy of a current approved Negotiated Indirect Cost Rate Agreement,

5. CD–511 "Certifications Regarding * * *"

6. SF–LLL "Disclosure of Lobbying" (blocks 1–10 & 16)

7. Statement of Work (narrative description of the proposed activity, objectives and milestones). This Statement of Work shall include:

(a) A description of the Intern Program, how they would implement it and conduct its operation. Alternatives and variations with regard to the timing of items 4 and 5 within the "Description of the Intended Operation of the Intern Program for each Internship" detailed above may be proposed.

(b) Proposed method of advertising for and pre-screening candidate Interns.

(c) Proposed relationship between the prospective Recipient and Selected Interns, with descriptions of services offered (e.g. tax withholding) and benefits available (e.g. health insurance, workman's compensation, etc.) to the Interns.

(d) Past history of the prospective Recipient in operating similar programs.

8. Proof of Status for First Time Eligible Non-Profit Applicants.

Application Forms and Kit

An application kit containing all required application forms and certifications is available by calling David L. Litton at NOAA Grants Management Division (301) 713–0946.

Project Funding Priorities

Responsiveness of the application to the programmatic objectives of the Intern program as noted in the Summary section and restated in the Type of Funding Instrument section above.

Evaluation Criteria

The proposals from prospective Recipients will be evaluated on the submitted application to conduct the proposed Intern Program. The evaluation shall be weighted as indicated:

1. Costs for operating the proposed Intern Program. (15%)

2. Description of the program, how they would implement it, conduct its operation and proposed time lines for filling internships. (25%)

3. Proposed relationship between the prospective Recipient and Selected Interns, with descriptions of services offered and benefits available to the Interns relative to their cost to the Grantor, Recipient, and Intern. (15%)

4. Proposed method for advertising for and pre-screening candidate Interns. (20%)

5. Past history of the prospective Recipient in operating similar programs and qualifications of proposed senior staff. (25%)

Selection Procedures

Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. The Independent Review Panel, consisting of at least three individuals in addition to the Selecting Official (NOS Federal Program Officer), will review, evaluate, and rank all applications based on the criteria stated above. The final decision on award will be based upon the numerical ranking and a determination by the Selecting Official that the Recipient's application meets the Project Funding Priorities.

Other Requirements

Interns Status Under Tort Claims Act

NOAA shall acknowledge that the Associates are performing research and will be under the general guidance of NOAA, and for legal purposes shall be considered student volunteers. (Under the 5 U.S.C. 311, a student volunteer is not a Federal employee for any purpose other than injury compensation and laws related to Tort Claims Act.)

Travel Expenses of Selected Interns

NOAA shall provide travel and transportation for Associates assigned to NOAA projects requiring field work as documented in the description of the Intern Opportunity. Associates shall complete Recipient's travel expenses report form for each trip and the NOAA project supervisor shall sign the form to acknowledge the trip. Travel advances for Associates shall be available from the Recipient as needed. All travel and transportation required for field work shall be in accordance with Federal Travel Regulations governing official travel. Associates shall be responsible for arranging and paying their own transportation to the NOAA duty location unless funds are specifically identified in the Internship description.

Restrictions

Interns will not be used to replace NOAA employees formerly employed under the Office of Personnel Management student appointing authorities, to replace temporary or term appointments, or to replace or fill-in for full or part-time NOAA positions vacated by the Voluntary Separation Program or Reduction in Force. Participants will not be selected or used to perform personal services. Nothing shall create the appearance that the participant is being used in a personal services manner. This would circumvent the civil service laws and reflect negatively on NOAA staff using this participant in this manner. The relationship between the Recipient and Interns is up to the Recipient. The Recipient may be the Intern's employer or it may choose to award the Interns stipends or grants. In any case, the Recipient is responsible for payment, discipline, leave approval, termination, etc. for each Intern. Nothing in this agreement or its supplements shall be deemed to create an employer-employee relationship between the NOAA and an Intern. Former NOAA employees (including students) are not eligible for this program within two years of employment at NOAA.

(1) Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

(2) Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(3) Preaward Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover preaward costs.

(4) No Obligation for Future Funding

If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

(5) Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

i. The delinquent account is paid in full,

ii. A negotiated repayment schedule is established and at least one payment is received, or

iii. Other arrangements satisfactory to DOC are made.

(6) Name Check Review

All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(7) Primary Applicant Certifications

All primary applicants must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

i. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

ii. *Drug-Free Workplace.* Recipients (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, Subpart F, "Government requirements for Drug-Free Workplace (Grants)" and related section of the certification form prescribed above applies;

iii. *Anti-Lobbying.* Persons (as defined at 15 CFR part 26, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

iv. *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

(8) Lower Tier Certifications.

Recipient shall require applicants/bidders for subgrants, contracts, subcontracts or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF–LLL "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipient and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(9) False Statements.

A False statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(10) Intergovernmental Review.

Applications under this program are not subject to executive Order 12372, "Intergovernmental Review of Federal Programs."

(11) Paperwork Reduction

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. This Notice involves collections of information subject to the Paperwork Reduction Act, which have been approved by the Office of Management and Budget under OMB Control Numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

(12) Executive Order 12866

It was determined that this notice was not significant under Executive Order 12866.

Captain Evelyn J. Fields,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–22777 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082098C]

Federal Investment Task Force; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Sustainable Fisheries Act (SFA) requires the Secretary of Commerce (Secretary) to establish a task force to study the role of the Federal Government in subsidizing fleet capacity and influencing capital investment in fisheries. The Federal Investment Task Force will hold its fifth meeting on August 31 - September 2, 1998, in Baltimore, MD.

DATES: The meeting of the task force will be held August 31 - September 2, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Holiday Inn Inner Harbor, 301 W. Lombard St., Baltimore, MD, telephone (410) 685–3500.

FOR FURTHER INFORMATION CONTACT: John Reisenweber, Atlantic States Marine Fisheries Commission, (301) 713–2363; fax: (301) 713–1875; email: john.reisenweber@noaa.gov; or Matteo Milazzo, (301) 713–2276.

SUPPLEMENTARY INFORMATION:

Meeting Dates

August 31, 1998, 10:00 a.m. to 5:00 p.m.

The Task Force will review the draft buyback paper presented at the previous meeting. The Task Force will also review the data collected on the FOG/FFP Program.

August 31, 1998, 7:00 p.m. to 9:00 p.m.

The Task Force will hear public input regarding the Federal Investment Study. The public is encouraged to comment on the general scope and concept of the study, as well as the effect of Federal programs on the capacity and capitalization of fishing fleets.

September 1, 8:30 a.m. to 6:00 p.m.

The Task Force will discuss and review the draft capacity paper. The Task Force will also discuss and review the draft report on the CCF program.

September 2, 1998, 8:30 a.m. to 5:00 p.m.

The Task Force will discuss other government programs/policies as they relate to capacity and capitalization in the nation's fisheries. These programs will include: Wallop-Breaux, Saltonstall-Kennedy, Sea Grant, USDA Marketing and Promotion, and the Jones Act. In addition, the regional reports will also be discussed.

The Task Force will also determine the subjects and topics to be included on the agenda for the next meeting.

Special Accommodations

The meeting is physically accessible to those with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John

Reisenweber at (301) 713–2363 at least 10 business days prior to the meeting date.

Dated: August 20, 1998.

Gary C. Matlock,

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

[FR Doc. 98–22812 Filed 8–20–98; 4:05 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081098C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of an Ad Hoc Technical Review Panel (Panel).

DATES: This meeting will begin at 8:30 a.m. on Wednesday, September 2, 1998 and conclude by 3:30 p.m.

ADDRESSES: The meeting will be held at the Crowne Plaza Hotel, 333 Poydras Street, New Orleans, LA.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The panel, consisting of Council members with technical backgrounds, will review analyses on the effectiveness of shrimp trawl bycatch reduction devices (BRDs) in reducing the number of juvenile red snapper taken as bycatch. NMFS will complete their analyses based on an ongoing observer program (63 FR 27485, May 19, 1998) that is collecting data on the effectiveness of the BRDs being used in trawls on commercial shrimp vessels in the Gulf.

NMFS will use the data collected to determine if all or a portion of an additional 3.12 million pounds (MP) of red snapper will be allocated to recreational and commercial fishermen in September. That action is based on an interim rule (63 FR 18144, April 14, 1998) implemented by NMFS whereby the 3.12 MP allocation was withheld contingent upon the BRDs reducing the bycatch of juvenile red snapper by 60 percent. Ten percent of the allocation will be released for each percent of bycatch reduction over 50 percent, as determined by the observer program.

Copies of the agenda can be obtained by calling 813–228–2815.

Although other issues not on the agenda may come before the Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 26, 1998.

Dated: August 17, 1998.

Gary C. Matlock,

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

[FR Doc. 98–22811 Filed 8–20–98; 4:05 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.081798A]

Marine Fisheries Advisory Committee; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) from September 23–25, 1998.

DATES: The meetings are scheduled as follows:

1. September 23, 1998, 9:00 a.m. - 5:00 p.m.
2. September 24, 1998, 8:30 a.m. - 4:00 p.m.
3. September 25, 1998, 8:30 a.m. - 1:00 p.m.

ADDRESSES: The meetings will be held at the Turf Valley Resort and Conference Center, 2700 Turf Valley Road, Ellicott City, MD. Requests for special accommodations may be directed to MAFAC, Office of Operations, Management and Information, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lu Cano, Executive Secretary; telephone: (301) 713–2252.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of meetings of MAFAC and MAFAC Subcommittees. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of the Nation are adequate to meet the needs of commercial and recreational fisheries, and of environmental, state, consumer, academic, and other national interests.

Matters to be Considered

September 23, 1998 Vision and mission of fisheries into the next millennium

Role of the Marine Fisheries Advisory Committee for the future

September 24, 1998

Strategic plan for fisheries for the next 5 years

Priority program areas and budgetary issues for fisheries

Summary and recommendations for final report

September 25, 1998

Budget, Legislative and Steering Committee Reports

Report and discussion on the status of the Oceans Act, Vessels, NOAA Corps, and Personnel Changes

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to MAFAC (see **ADDRESSES**).

Dated: August 19, 1998.

Andrew A. Rosenberg,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 98–22776 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072498A]

Marine Mammals

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center,

Honolulu Laboratory, NMFS, 2570 Dole Street, Honolulu, Hawaii 96822–2396, has been issued an amendment to scientific research Permit No. 848–1335.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,

1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Protected Species Program Manager, Pacific Area Office, Southwest Region, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713-2289.

SUPPLEMENTARY INFORMATION: On May 22, 1998, notice was published in the **Federal Register** (63 FR 29360) that an amendment of Permit No. 848–1335, issued June 10, 1997 (62 FR 32586), had been requested by the above-named organization. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222). The amendment provides authorization for the relocation or removal of up to 10 adult male Hawaiian monk seals (*Monachus schauinslandi*) from the Northwestern Hawaiian Islands, in the event that such seals are known to cause mortality to nursing or weaned pups. Emergency authorizations under Permit 848–1335 were granted on May 22 1998 and May 26, 1998, for the relocation to Johnston Atoll of two of these 10 animals.

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 11, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–22775 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Technical Advisory Committee To Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that renewal of the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure is in the public interest in connection with the performance of duties imposed upon the Department by law.

The Committee was first established in July 1996 to advise the Secretary of Commerce on technical specification recommendations for an encryption key recovery Federal Information Processing Standard.

The Committee consists of twenty members that have been appointed by the Secretary. They will serve to the end of their terms or the expiration of the charter (12/31/98), whichever is sooner. This will assure balanced membership of technical experts.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Committee's revised charter will be filed with the appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be directed to Edward Roback, Committee Secretary, Computer Security Division (820/426), Information Technology Laboratory, U.S. Department of Commerce, Gaithersburg, Maryland, 20899 telephone 301–975–3696.

Dated: August 18, 1998.

Mark Bohannon,

Chief Counsel for Technology Administration.

[FR Doc. 98–22727 Filed 8–24–98; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 251, Use of Government Sources by Contractors, and Related Clauses in Part 252; OMB Number 0704–0252.

Type of Request: Extension.

Number of Respondents: 3,500.

Responses Per Respondent: 3.

Annual Responses: 10,500.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 5,250.

Needs and Uses: The collection of information is necessary to facilitate the use of Government supply sources by contractors. Contractors must provide certain documentation to the Government to verify their authorization to purchase from Government supply sources, or to use Interagency Fleet Management System Vehicles and related services. The information collection includes the requirements of DFARS 252.251–7000, Ordering from Government Supply Sources, which requires a contractor to provide a copy of an authorization when planning an order under a Federal Supply Schedule or a Personal Property Rehabilitation Price Schedule; DFARS 252.251–7001, Use of Interagency Fleet Management System Vehicles and Related Services, which requires a contractor to submit a request for use of Government vehicles, when the contractor is authorized to use such vehicles, and specifies the information to be included in the contractor's request.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should

be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 19, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–22690 Filed 8–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Tender of Service and Letter of Intent for Personal Property, Household Goods and Unaccompanied Baggage Shipments; DD Forms 619 and 619–1; OMB Number 0702–0022.

Type of Request: Reinstatement.

Number of Respondents: 2,404.

Responses per Respondent: 619.

Annual Responses: 859,472.

Average Burden per Response: 1.22 hours (Tender of Service); 5 minutes (DD Forms 619).

Annual Burden Hours: 62,878.

Needs and Uses: The Tender of Service is the carrier's certification that they will conduct business with the Department of Defense in accordance with the provisions of the Tender of Service, solicitations, and other instructions, as published. The DD Forms 619 and 619–1 are receipts for goods/services provided by the carrier. The Tender of Service specifies the terms and conditions of participation in the DoD personal property program, and provides details concerning service and performance requirements and certifications.

Affected Public: Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be send to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 18, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–22692 Filed 8–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Ballistic Missile Defense Advisory Committee

ACTION: Notice of advisory committee meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session at the Johns Hopkins University Applied Physics Laboratory in Laurel, Maryland, on September 23–24, 1998.

The Mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense, through the Under Secretary of Defense (Acquisition and Technology), on all matters relating to BMD acquisition, system development, and technology.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended by 5 U.S.C., Appendix II, it is hereby determined that this BMD Advisory Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: August 19, 1998.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–22693 Filed 8–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: September 14, 1998.

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(l), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: August 19, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–22691 Filed 8–24–98; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Pub. L. 92–463, as amended, notice is hereby given of a forthcoming Quarterly Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Executive Committee Meeting is to review the responses to the recommendations and request for information adopted by the committee at the DACOWITS 1998 Spring Conference.

DATES: September 14, 1998, 8:30 a.m.–4 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Sandy Lewis, ARNGUS, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: Meeting agenda:

Monday, September 14, 1998

Time and event

8 a.m. DACOWITS member's arrive
8:30–8:59 a.m. Introductions (3E869—SecDef Conf Rm, (Open to Public)
8:50–10:14 a.m. Gender Integrated Training Brief (Open to Public)
10:15–10:29 a.m. Break
10:30–11:14 a.m. NCIS—Victim Preference Statement Briefing (Open to Public)
11:30–11:44 a.m. Break
11:15–1:14 p.m. Lunch
1:15–2:29 p.m. Collocation Policy Briefing (Open to Public)
2:30–2:44 p.m. Break
2:45–4 p.m. Fall Conference Overview and Wrap Up (Open to Public)
4:15 p.m. DACOWITS members depart

Dated: August 19, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–22694 Filed 8–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Exclusive Licensing of U.S. Patent Application Serial No. 09/131,786 for a Retractable Grappling Hook

AGENCY: U.S. Army Soldier Systems Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.7(a)(1), announcement is made of a prospective exclusive license of a retractable grappling hook described in U.S. Patent Application Serial No. 09/131,786, filed with the U.S. Patent and Trademark Office on August 10, 1998.

DATES: Written objections must be filed on or before 23 October 1998.

ADDRESSES: U.S. Army Soldier Systems Command, Office of Chief Counsel, Attn: Patent Counsel, Kansas Street, Natick, Massachusetts 01760–5035.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent J. Ranucci, Patent Counsel at 508–233–4510 or Ms. Jessica M. Niro, Paralegal Specialist at 508–233–4513.

SUPPLEMENTARY INFORMATION: The Retractable Grappling Hook was invented by Mr. James Sadeck. Rights in this invention are vested in the U.S. Government as represented by the U.S. Army Soldier Systems Command (SSCOM). Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 92–502) and Section 207 of Title 35, U.S. Code, the Department of the Army as represented by SSCOM intends to grant an exclusive license on the retractable grappling hook to Schaefer Marine, Inc., 158 Duchaine Boulevard, New Bedford, Massachusetts 02745.

Pursuant to 37 CFR 404.7(a)(1), any interested party may file written objections to the prospective license agreement. Written objections should be directed to the above address.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–22785 Filed 8–24–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a Computer Matching Program

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act, is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between Railroad Retirement Board (RRB) and DoD that their records are being matched by computer. The record subjects are RRB delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by RRB so as to permit RRB to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982, as amended.

DATES: This proposed matching program will become effective September 24, 1998 and matching may commence, unless changes to the matching program are required due to public comments or by Congressional or Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and RRB have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that RRB can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between RRB and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Debt Management Operations Specialist, Railroad Retirement Board, Bureau of Fiscal Operations, 844 Rush Street, Chicago, IL 60611-2092. Telephone (312) 751-4963.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and a advanced copy of this notice was submitted on August 11, 1998, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (61 FR 6435).

Dated: August 19, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NOTICE OF A COMPUTER MATCHING PROGRAM BETWEEN THE RAILROAD RETIREMENT BOARD AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION

A. *PARTICIPATING AGENCIES:* Participants in this computer matching program are the Railroad Retirement Board (RRB) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). RRB is the source agency, i.e., the activity disclosing the records for the purpose of the match. DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *PURPOSE OF THE MATCH:* Upon the execution of this agreement, the RRB will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed, serving, or retired, who may owe delinquent debts to the Federal Government under certain programs administered by the RRB. The RRB will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982, as amended, when voluntary payment is not forthcoming. These collection efforts will include requests by the RRB of the military service/employing agency in the case of military personnel (either active, reserve, or retired) and current non-postal civilian employees, and to the Office of Personnel Management in the case of retired non-postal civilian employees, to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *AUTHORITY FOR CONDUCTING THE MATCH:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Public Law 97–365), as amended by the Debt Collection Improvement Act of 1996 (Public Law 104-134, section 31001); 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 135, Under Secretary of Defense (Comptroller); Section 101(1) of Executive Order 12731; 4 CFR 101.1-105.5, Federal Claims Collection Standards; 5 CFR 550.1101 - 550.1108 Collection by Offset from Indebted Government Employees (OPM); and 20 CFR part 367, Recovery of Debts Owed to the Railroad Retirement Board From Other Government Agencies.

D. *RECORDS TO BE MATCHED:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

RRB will use personal data from the record system identified as RRB-42, entitled 'Uncollectible Benefit Overpayment Accounts' last published in the **Federal Register** at 49 FR 7900 on March 2, 1984 and amended as published in the **Federal Register** at 56 FR 47502 on September 19, 1991.

DoD will use personal data from the record system identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** at 61 FR 32779, June 25, 1996.

Sections 5 and 10 of the Debt Collection Act of 1982 (Public Law 97-365) authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish 'routine uses' pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the Debt Collection Act constitutes the necessary authority to satisfy the compatibility requirement of subsection (a)(7) of the Privacy Act. The systems of records described above contain an appropriate routine use provision which permits disclosure of information between the agencies.

E. *DESCRIPTION OF COMPUTER MATCHING PROGRAM:* The RRB, as the source agency, will provide DMDC with a electronic file which contains the names of delinquent debtors in programs the RRB administers. Upon receipt of the electronic file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the RRB file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of non-postal Federal civilian employees and military members, both active and retired. The 'hits', or matches will be furnished to the RRB. The RRB is responsible for verifying and determining that the data on the DMDC electronic reply file are consistent with the RRB's source file and for resolving any discrepancies or inconsistencies on an individual basis. The RRB will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file provided by the RRB will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for each debtor on approximately 5,000 delinquent debtors.

The DMDC computer database file contains approximately 8.64 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide non-postal Federal civilian records of current and retired Federal employees.

DMDC will match the SSN on the RRB file by computer against the DMDC database. Matching records, 'hits' based on SSN, will produce data elements of the individual's name, SSN, military service or employing agency, and current work or home address.

F. *INCLUSIVE DATES OF THE MATCHING PROGRAM:* This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for public comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange of data at a mutually agreeable time on an annual basis. By agreement between RRB and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *ADDRESS FOR RECEIPT OF PUBLIC COMMENTS OR INQUIRIES:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 98–22695 Filed 8–24–98; 8:45 am]

BILLING CODE 5000–4–F

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of Closed Teleconference Meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings by teleconference of the Executive Committee and the full membership of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

Dates: September 14, September 24, and possibly September 25, 1998.

Time: 11 a.m.–1 p.m.

Location: National Assessment Governing Board, 800 North Capitol Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing Voluntary National Tests pursuant to contract number RJ97153001.

On September 14, from 11 a.m. to 1 p.m., the Executive Committee of the National Assessment Governing Board will hold a closed teleconference meeting. The Executive Committee will prepare a document outlining the conditions for renewal of the Voluntary National Tests contract. The information and discussion will relate to the source selection criteria by which government contracts may be modified or awarded. Not only would the disclosure of such data implicate proscriptions set forth in the Federal Acquisition Regulations, but also such disclosure would significantly frustrate a proposed agency action. Specifically, disclosure of the Executive Committee's discussion may affect private decisions made by the contractor. Such matters are protected by exemption 9B of Section 552b(c) of Title 5 U.S.C.

On September 24, the Executive Committee will meet in closed session to review the contractor's response to the Governing Board's decisions of the options for renewal of the Voluntary National Tests contract. If unable to reach agreement or substantive changes are required given the contractor's response to the options for renewal of the contract, the Executive Committee will formulate recommendations to the Governing Board. This teleconference must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the Voluntary National Tests program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9B of Section 552b(c) of Title 5 U.S.C.

On September 25, 1998, if needed, the Governing Board will meet in a closed teleconference to take final action on substantive changes in the Voluntary National Tests contract. This teleconference must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the Voluntary National Tests program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9B of Section 552b(c) of Title 5 U.S.C.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Roy Truby,

Executive Director, National Assessment Governing Boord.

[FR Doc. 98–22689 Filed 8–24–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Nevada Operations Office; Notice Inviting Research Grant Applications

AGENCY: Nevada Operations Office, Department of Energy.

ACTION: Notice inviting research grant applications under Financial Assistance Program Notice 98–01.

SUMMARY: The Office of Research and Development (NN–20), of the Office of Nonproliferation and National Security (NN), U.S. Department of Energy, in keeping with its mission to strengthen the Nation's capabilities in the areas of nonproliferation of weapons of mass destruction and national security through the support of science, engineering, and mathematics, announces its interest in receiving grant applications from academic researchers, preferably in a corroborative partnership with one of the DOE National Laboratories. The purpose of this program is to enhance our national capability to detect illicit proliferation activities and our national capabilities to protect critical information and materials through research and development.

DATES: All applications, referencing Program Notice NN–98–01, should be received not later than 4:30 PM, PST, on or before September 24, 1998 in order to be accepted for merit review and to permit timely consideration for award.

ADDRESSES: Applications should be sent to U.S Department of Energy, Nevada Operations Office, Contracts Management Division, ATTN: Darby A. Dieterich, P.O. Box 98518, Las Vegas, NV 89193–8518.

FOR FURTHER INFORMATION CONTACT: Questions of a technical nature should be addressed to the following personnel: Peter G. Mueller, DOE/NV Emergency Management Division, (702) 295–1777; or Carolyn R. Roberts, DOE/NV Emergency Management Division, (702) 295–2611. Other questions should be addressed to Darby A. Dieterich, Contracts Management Division, (702) 295–1560.

SUPPLEMENTARY INFORMATION—RESEARCH TOPIC AREAS: It is anticipated that awards resulting from this notice will be made in the November 1998 timeframe. Another notice will be published in the near future setting forth a schedule for future submittals and associated reviews. In addition, an Internet address will be established containing Office of Research and Development (NN–20) program information for use in preparing and submitting future applications.

If the academic research entity does not have a current relationship with a National Laboratory, this partnership may be set up after the award of the grant with the aid of NN–20 at Office of Nonproliferation and National Security, NN–20, Office of Research and Development, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. General research program and related topic areas include, but are not limited to the following:

Radiation Detection Technology Program

The *Radiation Detection Technology Program* (RDTP) provides for basic research on new detectors and technology, advanced applications, prototype demonstrations, and field testing to analyze signatures associated with Special Nuclear Materials (SNM), nuclear weapons and weapon components and radioactive materials. The focus areas include Improved Instrumentation for Man-portable Analysis Systems, Development of New Materials as Detectors, and Advances in Algorithms and Onboard Decision-Making.

Improved instrumentation performance for man-portable analysis systems is focused on reducing the size, cost, and dependence on the skill of the operator; providing sensor selectivity; improving the quality of detectors; increasing sensitivity of detection; improving the selectivity and automating the analyses; and increasing the speed and accuracy of detection. R&D programs should also exploit advances in all emerging technologies to incorporate the flexibility of fieldable systems, e.g., advanced micro circuitry and thin film batteries.

Development of new materials as detectors seeks to improve detection capability through the utilization of new sensor materials. Classical efforts to detect radiation relied on ionization (e.g., Geiger counter) or reactions such as fission (fission counter) or absorption (boron trifluoride). Relatively recent advances in materials have resulted in breakthroughs in sensitivity and accuracy (e.g., lithium drifted germanium) at the expense of the requirement to cool the crystal to liquid nitrogen temperatures. New work is aimed at employing materials such as cadmium zinc telluride (CdZnTe), bismuth iodide, and lead iodide which offer the possibility of increased sensitivity and accurate spectral analysis without the need for external cooling. In addition to the use of these new materials to achieve a room temperature capability, the use of miniature mechanical coolers offers another route to the goal of improved sensitivity with portability.

Advances in algorithms and onboard decision making are focused on providing analytical capabilities in real time. Advances in computer technology, reduction of the size and power requirements, and micro miniaturization provide the capability to incorporate advanced algorithms for real time data analysis into fieldable instruments. These capabilities are becoming essential to effective SNM detection and control.

Cooperative Monitoring Program

The Cooperative Monitoring Program is focused in the topic areas of chemical sensors, arrays, and networks for detection of signature species in environmental samples indicative of nuclear, chemical, and biological weapons activities; data fusion methodologies to interpret large quantities of data from heterogeneous sensor networks; microanalytical technologies for chemical analyses of signature species; and tags and seals for arms control applications. The applications emphasis is on a cooperative and collaborative environment in which stakeholders are participating appropriately in the monitoring to enhance confidence, trust, and transparency.

Advanced Chemical Sensors, Arrays, and Networks are required for cooperative monitoring of facilities for treaty verification, IAEA safeguards, personnel protection, etc. These may be used either in a permanent system of monitor sensors or in periodic on-site inspections of declared activities. Both approaches require rugged and sensitive chemical instruments that will analyze the environment for specific signature compounds to verify that the facility (e.g., a chemical manufacturing plant or a nuclear fuel storage repository) is performing as declared. In other non-cooperative instances, it may be desirable to determine if signature compounds are present for illicit or undeclared operations at an industrial facility. Both qualitative identification of signature species and quantitative amounts of the species are needed. Chemical signature species must be detectable at trace levels such as ppb or ppt, and near-real-time analysis is desirable. Biochemical and metabolic phenomena offer opportunities for innovative sensors, both in terms of the receptor side of the sensor and the potential suite of analytes that can be monitored.

Data Fusion Methodologies are vital to the analysis of data from arrays and networks of sensors. Such systems are capable of generating huge quantities of data, most of which portray normal events and conditions. When a rare event or a potential threat condition occurs, it is critical to be able to recognize this occurrence in near-real time.

Therefore, data analysis techniques are needed that can manage large quantities of differing types of data and can subject these data to complex filters and algorithms to detect abnormal or threat conditions with very low incidences of false alarms. Data management systems that can learn the patterns of normal data by analysis of real (noisy) data and continually update the definition of normal through self-learning processes are desirable.

Microtechnologies for Chemical Analyses are needed to make routine laboratory analysis methods available in the field. Conventional workhorse tools for chemical analysis such as gas chromatography, mass spectrometry, and various other spectroscopic methods are powerful and well accepted in a laboratory environment, but usually are not amenable in their laboratory format for flexible monitoring and surveillance activities in a field environment.

In recent years, the technologies used to make microelectronic devices are being adapted to make miniature analogs of classical laboratory instruments for chemical analysis. Biochemical phenomena and analytical techniques are also amenable to miniaturization via microtechnologies. This revolution in chemical analysis instrumentation is in its relative infancy, and there appear to be many opportunities to miniaturize the bench- and laboratory-scale instruments. The benefits of miniaturization for chemical analysis are similar to the benefits for electronics products—low power requirements, lightweight for portability, and enhanced ruggedness and reliability. New sampling technologies are needed to take advantage of the real-time potential of miniaturized instruments.

Tags and Seals are enjoying a renewed interest as a result of domestic and international arms control applications.

Broad Area Search and Analysis Program

The Broad Area Search and Analysis (BASA) program addresses the difficulties associated with the detection and classification of proliferation facilities, particularly those that are located underground. Sensor development and analysis activities fall into several research topic areas: Multispectral/Hyperspectral/Ultraspectral imaging, Synthetic Aperture Radar, Advanced Airborne Systems, Power Line Monitoring, and Geophysical Methods. The potential for false alarms as a result of any single technique may be quite high. Hence, the final BASA research area is Data Fusion to optimize the facility characterization while minimizing the false alarm probability.

Multispectral/Hyperspectral/Ultraspectral Systems include imaging throughout the visible, infrared, and ultraviolet spectral bands. Nominally, multispectral systems contain 2–19 bands of data and are relatively mature. Hyperspectral systems include 20–299 bands and are relatively new sensors. Ultraspectral systems have 300 or more bands. Correspondingly, data from the multispectral systems have been used for decades and is mature while the exploitation of the data from hyperspectral is in its adolescence and ultraspectral data analysis is in its infancy.

The thrust of the research in this area is in algorithm development for new exploration tools to interpret alterations of the natural patterns that occur as the result of man's activities. The alterations may be the result of perturbations in drainage patterns, development of vegetation stress, deposition of effluents and their effects, overt or covert construction, etc. Such alterations can often be observed from great distances such as satellite orbits. Thus there is great potential for exploiting alterations by systems that cover large or nationwide areas. Significant issues include calibration, removal of atmospheric effects and the ability to find information of interest. The algorithms must be able to distill large quantities of data to the essential, proliferation-relevant information for data transmission and effective visualization by decision-makers.

New concepts are also welcome for 1) specialized, deployable, adaptive or reconfigurable processor hardware; 2) combined passive/active optical systems; or 3) self-unfolding/adjusting optics to package large systems in small satellites.

Synthetic Aperture Radar (SAR) technology is advancing rapidly as we develop the systems and the processing means to utilize this technology. The Interferometric SAR has shown great potential for digital terrain mapping, coherent change detection, motion detection, and other uses. The thrust of research in this area for the future will be in increasing our processing capabilities, particularly near-real time processing, so that we can then push forward with plans for increased systems capabilities. The great advantage which radar systems have over optical systems is their ability to image under any weather conditions. The primary disadvantage is that they provide a monochromatic image of reflective surfaces rather than a full or false color imaging. However, future dual or multiband SAR systems offer the potential of textural or polarization information that may correlate with surface types.

New concepts for using passive microwave sensors and imaging arrays are also welcome.

Power Line Monitoring includes several technology thrusts that utilize data either obtained from or derived from power line systems. Engineering principles and grid modeling of power line configurations may be used together with observable line configurations to determine the likelihood of missing or buried elements. Transient pulses may be introduced into the lines to confirm or refute the modeled behavior. The passive electromagnetic fields emanating from the power lines may be mapped, modeled, and analyzed.

Geophysical Methods include gravity, magnetics, and electromagnetic induction (EMI). Gravity and magnetics look for variations in the earth's natural fields due to the presence of clandestine facilities. The deficiency of mass due to excavation of an underground facility generates a gravity low and the presence of ferromagnetic materials such as iron in the reinforced concrete and machinery of the facility generates a magnetic high. Thus one may look for a localized perturbation of the normal fields as an indication of an underground facility. The field perturbations generated by such facilities decay rapidly and generally must be observed within a few thousand meters. Effective use of these technologies may require the development of both improved instruments and stabilized airborne platforms. These development tasks are formidable and require a demonstration of the utility of the techniques, modeling to show the potential at extended distances, and an evaluation of the merits of such technology.

Data Fusion is needed to merge the information from the disparate technologies cited in the previous sections. Each individual sensor measures some phenomenology that may be indicative of proliferation activity. The false alarm rate for any given technique may be quite high. e.g. there are numerous reasons why there may be a gravity low or why vegetation may be stressed, etc. But combined with other techniques, the false positive rate is expected to be significantly lower.

Remote Chemical Detection Program

The goal of the Remote Chemical Detection Program is to be able to detect chemicals from a stack/vent plume at a distance. Innovative algorithms which can quickly analyze large volumes of hyperspectral or ultraspectral data are needed. The goal is to process data from passive and/or active sensors into usable information. Key issues include removal of atmospheric effects, backgrounds and other interferences in the mid-wave infrared (3–5 microns) or in the long-wave infrared (8–14 micron) regions. Algorithms which require a pixel-by-pixel removal of these effects are too computationally intensive and will not be considered. Proposals should be tied to specific sensors and contain benchmarks for how new algorithms improve on the state-of-the-art.

Counter Nuclear Smuggling Program

The primary technical goals of the Counter Nuclear Smuggling Program are to improve capabilities to detect and intercept diverted nuclear materials, and to provide improved analytical tools to aid forensics and attribution assessment. The primary technical challenges that arise from these goals are: to develop operationally useful, automated and cost-effective nuclear material detectors; to develop robust techniques to detect highly enriched uranium; to develop systems to detect nuclear materials in transit; to develop technologies to search for nuclear material; and to develop the tools and the data bases for forensic and attribution assessment of foreign nuclear material. To address these challenges the Counter Nuclear Smuggling R&D program is organized into the following program elements: Fundamental Detection Technology; Highly Enriched Uranium Detection; Nuclear Material Tracking and Search; and Forensics and Attribution Assessment.

Fundamental Detection Technology is aimed at means for detecting the intrinsic and/or stimulated radiation from concealed Special Nuclear Materials (SNM). This type of technology would allow technical barriers to be employed for detecting and deterring illicit movement of nuclear materials. The overall objective is to develop new sensors that are intelligent, provide automated response, operate at room temperature, consume little power, have good resolution, are cost effective, and have a low false alarm rate. This can be accomplished at many levels including basic and applied research on detection materials, integration of current high resolution room temperature materials (in particular cadmium zinc telluride) into fieldable detector systems, development of alternative cooling systems for high resolution detectors, and miniaturization by exploiting Application Specific Integrated Circuit (ASIC) and microfabrication technology.

Highly Enriched Uranium Detection is extremely difficult in a passive mode, and HEU is the most likely material a terrorist would use for a nuclear device. For this reason, there is interest in advancing active interrogation technologies into prototype HEU detection systems. The primary emphasis is on developing systems for choke point monitoring of luggage, small packages, large containers, trucks, rail cars and sea-going containers. Novel techniques to improve passive or active detection of HEU are encouraged.

Nuclear Material Tracking and Search capabilities need to be improved for materials and/or weapons in transit. Possible methods to improve material tracking include data fusion techniques to improve the capability of integrated networks of sensors and the tagging of materials. The goal is to develop systems which can be deployed in areas around key facilities to detect and track in-coming or out-going nuclear materials to facilitate interception. Tagging techniques to improve the ability to monitor the movement of nuclear materials are also feasible. These measures are typically expected to be extrinsic devices, e.g. RF transmitters integrated into storage or shipping containers to track material while in transit or moving inside storage/handling facilities.

Nuclear material search is extremely important and difficult when diversion is suspected or known but location and recovery have not yet occurred. Search requires cueing, e.g. by INTEL or tip-off, to reduce the search region to a feasible size. DOE Emergency Response, Radiological Assistance Program and Nuclear Emergency Search Teams have the pre-eminent nuclear search capability. This program element involves the development of techniques, systems, and devices to improve the capabilities of this community. Both passive and active techniques will be explored.

Forensics and Attribution Assessment focuses on the development of relevant databases and forensics tools to aid in attribution assessment. The goal of attribution assessment is to identify the diversion point, the original source of the material, and the perpetrators. Recently, a laboratory exercise on a blind sample of seized nuclear material indicated that the DOE laboratories have extensive analytical capabilities to characterize such materials. Lacking is the ability to identify the diversion point, the original source of the material, and the perpetrator. To improve these capabilities, research on trace detection and attribution assessment is needed. This will require research into potential unique characteristics (isotopes, isotope ratios, etc.) and the relevant databases to attribute the nuclear material to the original source, which in turn will help identify the perpetrator.

Issuance: Issued in Las Vegas, Nevada, on August 13, 1998.

G. W. Johnson,

Head of Contracting Activity.

[FR Doc. 98–22780 Filed 8–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. FE C&E 98–06—Certification Notice—161]

Office of Fossil Energy: El Dorado Energy, LLC; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On July 31, 1998, El Dorado Energy, LLC submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: El Dorado Energy, LLC.

Operator: El Dorado Energy, or Houston Industries Power Generation, or Enova Power Corp., or an affiliate(s) thereof.

Location: Clark County, Nevada.

Plant Configuration: Combined-Cycle.

Capacity: 492 megawatts.

Fuel: Natural gas.

Purchasing Entities: Unspecified wholesale power purchasers.

In-Service Date: Late 1999.

Issued in Washington, DC, August 18, 1998.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–22779 Filed 8–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–99–007 and RP98–308–001]

Algonquin LNG, Inc., Notice of Compliance Filing

August 19, 1998.

Take notice that on August 13, 1998, Algonquin LNG, Inc. (ALNG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective on the dates listed:

Effective June 1, 1998
Substitute Second Revised Sheet No. 83

Effective August 1, 1998
Substitute Third Revised Sheet No. 83

ALNG asserts that the purpose to this filing is to comply with the Federal Energy Regulatory Commission's (Commission) Letter Order dated July 29, 1998, in Docket Nos. RP97–99–006 and RP98–308–000 (July 29 Order). ALNG states that Second Revised Sheet No. 83 filed on May 1, 1998, and Third Revised Sheet No. 83 filed on July 1, 1998, inadvertently listed Gas Industry Standards Board (GISB) Standard 5.4.16 as 5.1.16. ALNG also states that the substitute tariff sheets listed above are being filed to correct the reference to GISB Standard 5.4.16 in compliance with the Juiy 29 Order.

ALNG states that copies of the filing were served on all affected customers, interested state commissions and all parties to the proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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 proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22782 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–75–002]

Black Hills Power & Light Company; Notice of Filing

August 19, 1998.

Take notice that on July 17, 1998, Black Hills Power & Light Company tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 31, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22707 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–126–006]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 19, 1998.

Take notice that on August 13, 1998, Iroquois Gas Transmission System, L.P. (Iroquois), tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Nineteenth Revised Sheet No. 4
Alt. Nineteenth Revised Sheet No. 4
Eighth Revised Sheet No. 5
Fourth Revised Sheet No. 11B
Fifth Revised Sheet No. 27
Second Revised Sheet No. 75C
Original Sheet No. 75D

Iroquois states that the instant filing results in a reduction to its base transportation rates, reduces rates for the Park and Loan (PAL) Rate Schedule, and makes other tariff changes in compliance with the Commission's Order Affirming in Part and Reversing in Part Initial Decision issued on July 29, 1998, in this proceeding. Iroquois states that the Commission's decision ruled on Iroquois' general rate filing submitted on November 29, 1996 pursuant to Section 4 of the Natural Gas Act. That filing concerned virtually all aspects of Iroquois rates, including cost of service, capital structure, return, throughput, cost allocation and rate design. Iroquois requests that its compliance filing be made effective on the date the Commission accepts such filing, subject to Iroquois' right to seek rehearing, judicial review, and surcharges to correct any legal errors.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed as provided in 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 proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22783 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–126–007]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 19, 1998.

Take notice that on August 13, 1998, Iroquois Gas Transmission System, L.P. (Iroquois), tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Second Substitute Fifteenth Revised Sheet No. 4
Substitute Sixteenth Revised Sheet No. 4
Substitute Seventeenth Revised Sheet No. 4
Second Substitute Eighteenth Revised Sheet No. 4

Iroquois states that the instant filing would permit Iroquois to: (1) reinstate in rates certain legal defense costs that were improperly removed on a summary basis from Iroquois' rates pursuant to the Commission's December 31, 1996 order in this proceeding; and (2) surcharge customers (with interest) to put Iroquois in the position it would have been in had the Commission not committed the legal error of summarily removing such costs. Iroquois states that the summary removal of the legal costs is now invalid in light of the July 21, 1998 decision of the United States Court of Appeals for the District of Columbia Circuit in Iroquois Gas Transmission System, L.P. v. FERC, No 97–126 and 97–1533. Iroquois requests that the instant filing be made effective on the same date that the Commission accepts Iroquois' concurrently submitted rate reduction filing in compliance with the Commission's July 29, 1998 order in this docket.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be

filed as provided in 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 proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22784 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–28–002]

Pacific Gas & Electric Company; Notice of Filing

August 19, 1998.

Take notice that on August 18, 1997, Pacific Gas & Electric Company tendered for filing copies of its revised open access transmission tariff in compliance with Order No. 888.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 31, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22706 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3110–001]

PJM Interconnection, L.L.C.; Notice of Filing

August 19, 1998.

Take notice that on July 30, 1998, pursuant to order by the Director, Division of Rate Applications in the above captioned docket, PJM Interconnection, L.L.C. (PJM), tendered for filing its compliance filing to amend its Form of Service agreement for Firm Point-to-Point Transmission Service (PJM Open Access Transmission Tariff, Attachment A).

The amendment provides for a confirmation period during which an applicant for Short-Term Firm Point-To-Point Transmission Service must confirm, following PJM's approval of its request for service, that it will commence service in accordance with its request.

PJM requests an effective date of August 1, 1998 for the amendment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 31, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22708 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC96–19–038, et al.]

California Power Exchange Corporation, et al. Electric Rate and Corporate Regulation Filings

August 17, 1998.

Take notice that the following filings have been made with the Commission:

1. California Power Exchange Corporation

[Docket Nos. EC96–19–038 and ER96–1663–039]

Take notice that on August 12, 1998, the California Power Exchange Corporation (PX), filed for Commission acceptance in this docket, pursuant to Section 205 of the Federal Power Act, an application to amend the PX Operating Agreement and Tariff (including Protocols) (PX Tariff) and a motion for waiver of the 60-day notice requirement.

The PX proposes amendments to the Day Ahead Market timeline in Section 2.1 of the Power Exchange Scheduling and Control Protocol. The proposed amendments advance time deadlines to comport with actual market operations.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Consumers Energy Company

[Docket No. ER97–1386–002]

Take notice that on August 12, 1998, Consumers Energy Company tendered for filing a Settlement Refund Compliance Report regarding refunds made to Edison Sault Electric Company to implement the electric transmission service settlement approved by the Commission in its order dated July 16, 1998.

Copies of the filed report were served upon the Michigan Public Service Commission and Edison Sault Electric Company.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Westchester RESCO Company, L.P.

[Docket No. ER98–3937–000]

Take notice that on July 28, 1998, Westchester RESCO Company, L.P., tendered for filing a summary of activity for the quarter ending June 30, 1998.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Virginia Electric and Power Company

[Docket No. ER98–3994–000]

Take notice that on July 29, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing a summary of short-term transactions made during the second quarter of calendar year 1998 under Virginia Power's market rate sales tariff, FERC Electric Power Sales Tariff, First Revised Volume No. 4.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Energis Resources Incorporated

[Docket No. ER98–4001–000]

Take notice that on July 30, 1998, Energis Resources Incorporated tendered for filing a letter stating that effective June 11, 1998, Energis Resources Incorporated changed its corporate name to PSEG Energy Technologies Inc.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER98–4018–000]

Take notice that on July 30, 1998, Idaho Power Company filed notice of its termination of several transactions with Power Company of America.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4020–000]

Take notice that on July 30, 1998, Consolidated Edison Company of New York, Inc., tendered for filing a summary of the electric exchanges, electric capacity, and electric other energy trading activities under its FERC Electric Tariff Rate Schedule No. 2, for the quarter ending June 30, 1998.

Comment date: August 31, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. 3E Energy Services, LLC

[Docket No. ER98–4184–000]

Take notice that on August 10, 1998, 3E Energy Services, LLC tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 1, effective September 11, 1997.

Comment date: September 2, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Electric Company; Cambridge Electric Light Company

[Docket No. ER98–4193–000]

Take notice that on August 12, 1998, Commonwealth Electric Company (Commonwealth), and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission, executed Service Agreements between the Companies and Enserch Energy Services, Inc.

These Service Agreements specify that the Customer has signed on to and has agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customer to enter into separately scheduled short-term transactions under which the Companies will sell to the Customer capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Coral Power, L.L.C.

[Docket No. ER98–4196–000]

On August 12, 1998, Coral Power, L.L.C. (Coral), a Delaware limited liability company with its principal place of business in Houston, Texas, petitioned the Commission for: (1) acceptance of Coral's Rate Schedule FERC No. 2, providing for the sale of electricity at market-based rates to affiliates that do not have captive retail electric customers; and (2) waiver of the 60-day notice requirement and certain requirements under Subparts B and C of Part 35 of the regulations.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Maine Public Service Company

[Docket No. ER98–4197–000]

Take notice that on August 12, 1998, Maine Public Service Company (Maine Public), filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with PG&E Energy Trading-Power, L.P.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Public Service Company

[Docket No. ER98–4198–000]

Take notice that on August 12, 1998, Maine Public Service Company (Maine Public), filed an executed Service Agreement for firm point-to-point transmission service under Maine Public's open access transmission tariff with PG&E Energy Trading-Power, L.P.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Co.

[Docket No. ER98–4199–000]

Take notice that on August 12, 1998, Portland General Electric Company (PGE), tendered for filing under PGE's Market-Based Rate Tariff, (Docket No. ER98–2584–000), an executed Service Agreement for Service at Market-Based Rates with California Independent System Operator.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective April 21, 1998.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4200–000]

Take notice that on August 12, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as N.P.), tendered for filing an executed Short-Term Market-Based Electric Service Agreement between N.P. and Illinois Power Co. (Customer).

N.P. requests an effective date of July 16, 1998.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4201–000]

Take notice that on August 12, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as N.P.), tendered for filing an executed Short-Term Market-Based Electric Service Agreement, between N.P. and Upper Peninsula Power Company (Customer).

N.P. requests that this Short-Term Market-Based Electric Service Agreement be made effective on July 15, 1998.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4202–000]

Take notice that on August 12, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as N.P.), tendered for filing an Electric Service Agreement between N.P. and Upper Peninsula Power Company (Customer). This Electric Service Agreement is an enabling agreement under which N.P. may provide to Customer the electric services identified in N.P. Operating Companies Electric Services Tariff original Volume No. 4.

N.P. requests that this Electric Service Agreement be made effective on July 15, 1998.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power & Light Company

[Docket No. ER98–4206–000]

Take notice that on August 12, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Tractebel Energy Marketing, Inc. for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on September 1, 1998.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment date: September 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Inland Power & Light Company

[Docket No. ES98–43–000]

Take notice that on August 7, 1998, Inland Power & Light Company (Inland), submitted for filing a Request for Disclaimer of Jurisdiction or Alternative Request for Retroactive Approval for the Issuance of Securities or No Action Order, pursuant to Section 204 of the Federal Power Act (FPA), and Part 34 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 34.

Inland requests that the Commission disclaim jurisdiction or approve the assumption of an obligation in the form of debt owed by Lincoln Electric Cooperative (Lincoln) with a retroactively effective date of August 15, 1995.

Comment date: September 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22705 Filed 8–24–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 6147–5]

Public Water System Supervision Program Revision for the Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the Commonwealth of Virginia has revised their approved State Public Water System Supervision Primacy Program. Virginia has adopted drinking water regulations for volatile organic chemicals, synthetic organic chemicals, and inorganic chemicals (Known as Phase II, IIB and V) that correspond to the National Primary Drinking Water Regulations promulgated by EPA on January 30, 1991 (56 FR 3526), July 1, 1991 (56 FR 30266) and July 17, 1992 (57 FR 31776). Virginia has also adopted drinking water regulations for lead and copper that correspond to the National Primary Drinking Water Regulations promulgated by EPA on June 7, 1991 (56 FR 26460). EPA has determined that these State program revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by September 24, 1998 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by September 24, 1998, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on September 24, 1998.

A request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

- Regional Administrator, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029.
- Virginia Department of Health, 1500 East Main Street, Richmond, Virginia 23218.

FOR FURTHER INFORMATION CONTACT: Michelle Hoover, U.S. EPA, Region III, Drinking Water Branch (3WP22), at the Philadelphia address given above; telephone (215) 814–5258.

Dated: August 10, 1998.

Thomas Voltuggio,

Acting Regional Administrator, EPA, Region III.

[FR Doc. 98–22797 Filed 8–24–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6151–5]

Proposed Settlement Under Section 122 (h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of Sturgis Municipal Well Field Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for public comment.

SUMMARY: Notice of Settlement: in accordance with section 122(I)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), notification is hereby given of a settlement concerning past response costs at the Sturgis Municipal Well Field Superfund Site in Sturgis, Michigan. This proposed agreement has been forwarded to the Attorney General for the required prior written approval for this Settlement, as set forth under section 122(g)(4) of CERCLA. This

proposed agreement will not be made final until after the Attorney General has approved it.

DATES: Comments must be provided on or before September 24, 1998.

ADDRESSES: Comments should be addressed to Karen L. Peaceman, Assistant Regional Counsel, Mail Code C–14J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of Sturgis Municipal Well Field Superfund Site.

FOR FURTHER INFORMATION CONTACT: Karen L. Peaceman, Mail Code C–14J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5751.

SUPPLEMENTARY INFORMATION: The following party executed binding certification of its consent to participate in the settlement: The Newell Co.

The Newell Co. will pay $1,486,015.43 for response costs related to the Sturgis Municipal Well Field Superfund Site, if the United States Environmental Protection Agency determines that it will not withdraw or withhold its consent to the proposed settlement after consideration of comments submitted pursuant to this document

U.S. EPA may enter into this settlement under the authority of section 122(h) of CERCLA. Section 122(h)(1) authorizes EPA to settle any claims under section 107 of CERCLA where such claim has not been referred to the Department of Justice. Pursuant to this authority, the agreement proposes to settle with a party who is potentially responsible for costs incurred by EPA at the Sturgis Municipal Well Field Superfund Site.

A copy of the proposed administrative order on consent and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Karen L. Peaceman, Mail Code C–14J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this document.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. section 9601 *et seq.*

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 98–22789 Filed 8–24–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6147–6]

Proposed National Pollutant Discharge Elimination System General Permit and Reporting Requirements for the Final Beneficial Reuse or Disposal of Municipal Sewage Sludge (ARG650000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Pursuant to section 405(f)(1) of the Clean Water Act (CWA) EPA is proposing a General Permit to treatment works treating domestic sewage (TWTDS), including publicly owned treatment works (POTWs), in the State of Arkansas. Notice is for the draft general permit for the land application, surface disposal, and disposal in a municipal solid waste landfill (MSWLF) of sewage sludge generated during the treatment of domestic sewage in a treatment works.

SUMMARY: Section 305(f)(1) of the CWA provides all permits issued under section 402 to a POTW or any other TWTDS must include requirements for the use and disposal of sludge that implement the regulations established pursuant to section 405(d) of the CWA (see 40 CFR Part 503 and Part 258).

The State of Arkansas was authorized to implement the National Pollutant Discharge Elimination System (NPDES) program on November 1, 1986. It is not applying for authorization to implement the sewage sludge program. The Arkansas Pollutant Discharge Elimination System permits issued to wastewater treatment facilities will not provide permit coverage for disposal of sewage sludge. EPA is proposing this permit to assure sewage sludge is beneficially reused or disposed in accordance with regulations to protect human health and the environment. The 40 CFR Part 503 Standards consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works. Reuse or disposal methods addressed in the general permit include sewage sludge applied to the land, placed on a surface disposal site, and disposed in a municipal solid waste landfill. This notice requests comments on the general permit.

DATES: Comments on the proposed permit must be received on or before October 26, 1998. See HEARINGS for information on hearing dates.

ADDRESSES: The public should send an original and two copies of their comments addressing any aspect of this notice to Wilma Turner, Administrative Team of the Water Quality Protection Division (6WQ–CA), U.S. Environmental Protection Agency Region 6, 1445 Ross Ave. Suite 1200, Dallas, Texas 75202 (214) 665–7516.

The public record is located at EPA Region 6, and is available upon written request. Requests for copies of the public record should be addressed to Wilma Turner at the address above. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed draft general permit or a complete copy of the entire fact sheet and general permit contact Wilma Turner, Administrative Team of the Water Quality Protection Division (6WQ–CA), U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Suite 1200, Dallas, Texas 75202 (214) 665–7516.

HEARINGS: A meeting and public hearing will be held on September 30, 1998, at the following location: La Quinta Inn, Otter Creek, 11701 Interstate 30, Little Rock, Arkansas 72209, Phone: 501–455–2300.

The public meeting will begin at 3:00 pm and end at 5:00 pm. The public hearing will begin at 7:00 pm with registration beginning at 6:30 pm. The public meeting will provide information on the permit conditions. The public can make formal statements and comments for the public record at the public hearing.

SUPPLEMENTARY INFORMATION:

I. Framework of Permitting System

Regulated entities include:

Category	Examples of regulated entities
Treatment Works Treating Domestic Sewage	Publicly Owned Treatment Works (Municipalities).
Treatment Works Treating Domestic Sewage	Sewage Sludge Treatment Devices (Including Blenders of Sewage Sludge).
Treatment Works Treating Domestic Sewage	Wastewater Treatment Devices.
Treatment Works Treating Domestic Sewage	Federal Facilities Treating Domestic Sewage.

Category	Examples of regulated entities
Treatment Works Treating Domestic Sewage	Owners of Land Dedicated to the Disposal of Sewage Sludge.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your operation is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR Subpart 122.21(c)(2) of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Section 405(f) of the CWA requires that any permit issued under section 402 of the Act to a POTW or any other TWTDS shall include the requirements established pursuant to section 405(d) of the CWA, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act.

II. Permitting

A. Permit Application Regulations

1. Regulations Requiring POTW NPDES/Sludge Permit Coverage

In accordance with 40 CFR Subpart 122.21(c)(2), all POTWs and any other existing TWTDS are required to apply for a NPDES permit. POTWs generating/treating/blending/disposing of sewage sludge are subject to the application submission deadlines as defined in the February 19, 1993, **Federal Register**. 40 CFR Subpart 122.21(a) excludes persons covered by general permits from requirements to submit individual permit applications. Coverage under this general permit will eliminate the operator's need to reapply for an individual sewage sludge permit.

2. Regulations Requiring All Other TWTDS Coverage

All other TWTDS must apply for a permit. A TWTDS is defined in 40 CFR Subparts 122.2 and 501.2 as "a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This includes facilities that generate sewage sludge or otherwise effectively control the quality or change the characteristics (e.g., blenders) of sewage sludge or the manner in which it is disposed. In addition, all TWTDS disposing of sewage sludge in a State-permitted Municipal Solid Waste Landfill (MSWLF) must also apply for a permit. 40 CFR Part 503 requires all sewage sludge disposed in a MSWLF meet the requirements in 40 CFR Part 258 concerning the quality of the materials disposed.

3. Application of General Permit

This public notice specifies that official notification is required for coverage under this general permit pursuant to 40 CFR Subpart 122.28(b)(2). Notifying EPA under a general permit is a mechanism which can be used to establish an accounting of the number of permittees covered by the general permit, the nature of operations at the facility generating the sewage sludge, and the identity and location of sludge disposal sites. This type of information is appropriate since the sewage sludge is being monitored and tracked. This permit will apply to all TWTDS (including POTWs) covered by permitting requirements under 40 CFR Part 503 and 40 CFR Part 258.

4. Individual Permit Application Requirements

The requirements for an individual permit application are found in 40 CFR Subpart 501.15(a)(2). The information is intended to develop the site-specific conditions generally associated with individual permits. Individual permit applications may be needed under several circumstances. Examples include: a TWTDS authorized by a general permit that covers final reuse or disposal of sewage sludge and requests to be excluded from the coverage of the general permit by applying for an individual permit, and EPA has determined the appropriateness of the permit (see 40 CFR Subpart 122.28(b)(3)(i) for EPA issued general permits); or the Director requires a TWTDS authorized by a general permit to apply for an individual permit (see 40 CFR Subpart 122.28(b)(3)(iii) for EPA issued general permits).

III. Draft General Permit for Final Beneficial Reuse and Disposal of Municipal Sewage Sludge

A. Today's Notice

Today's notice proposes a general permit for final beneficial reuse and disposal of municipal sewage sludge in Arkansas. The following portion provides notice for the draft general permit and accompanying fact sheet for a general Sewage Sludge permit in Arkansas. This draft general permit is intended to cover the final beneficial reuse and disposal of municipal sewage sludge in accordance with the *Standards for the Use or Disposal of Sewage Sludge* 40 CFR Part 503. The proposed permit contains: The Federal guidelines to insure that the permittee's practices do not pose a threat to human health and the environment due to toxic pollutants and pathogens.

Effective Date of Requirements

This permit shall be effective the first day of the month following issuance.

EPA Contacts

United States EPA, Region 6, Water Quality Protection Division (6WQ–PO). First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202.

Comment Period Closes

The comment period ends 60 days following the publication of this general permit in the **Federal Register**.

B. Preamble for Draft General Permit

1. Coverage Under the Proposed General Permit

Types of Final Sludge Reuse or Disposal Practices Covered. Those facilities generating sewage sludge or used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. The permit being proposed is intended to cover all TWTDS (including POTWs) in the State of Arkansas with requirements for the final reuse or disposal of municipal sewage sludge.

Designated Treatment Works Treating Domestic Sewage. In accordance with 40 CFR Subpart 122.2 (definition of TWTDS), the Regional Administrator may designate any facility a TWTDS if he or she becomes aware of facilities which do not automatically fit the definition of TWTDS, but finds that the

facility poses a potential for adverse effects on the public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503.

POTWs with Pending Application. Some existing TWTDS have submitted applications in accordance with NPDES requirements and have remained unpermitted due to the administrative work load and priorities. All of these applicants will gain coverage under the sewage sludge program through the issuance of this permit. Region 6 believes this benefits those applicants without a permit. Any permittee desiring an individual permit may petition the Director in accordance with 40 CFR Subpart 122.28(b)(3)(iii).

2. Permit Conditions

a. Description of draft permit conditions. The conditions of this draft permit have been developed to be consistent with the self implementing requirements of the 40 CFR Part 503 regulations. The draft permit contains requirements for TWTDS (including POTWs) that land apply municipal sewage sludge, surface dispose municipal sewage sludge, and dispose of municipal sewage sludge in a municipal solid waste landfill.

(1) For sewage sludge that is land applied, permit conditions specifically address the following: (A) Requirements specific to bulk sewage sludge for application to the land meeting class A or B pathogen reduction and the cumulative loading rates in Table 2 of the permit, or class B pathogen reduction and the pollutant concentrations in Table 3 of the permit. (B) Requirements specific to bulk sewage sludge meeting pollutant concentrations in Table 3 of the permit and Class A pathogen reduction requirements. (C) Requirements specific to sludge sold or given away in a bag or other container for application to the land that does not meet the pollutant concentrations in Table 3 of the permit.

(2) For sewage sludge that is surface disposed, permit conditions specifically address the following: (A) Requirements specific to surface disposal sites without a liner and leachate collection system. (B) Requirements specific to surface disposal sites with a liner and leachate collection system.

(3) For sewage sludge that is disposed in a municipal solid waste landfill, 40 CFR Subpart 503.4 states that permit conditions require sewage sludge disposed to meet the quality requirements of 40 CFR Part 258. Major POTWs (those POTWs with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve 10,000 people or more, or any POTW required to have an approved pretreatment program under 40 CFR Subpart 403.8(a)) disposing of sewage sludge in a municipal solid waste landfill are required to conduct a TCLP test once/permit life to determine if the sludge is hazardous as well as an annual paint filter test to assure that the sludge does not contain free liquids. Compliance with these testing requirements will assure that the sewage sludge meets the quality requirements.

b. Sludge Quality Limitations. Specific numerical permit conditions for metals are dependent upon the quality of the sludge as well as the method used by the TWTDS for the final reuse or disposal of municipal sewage sludge.

IV. Economic Impact

EPA believes that this proposed general permit will be economically beneficial to the regulated community. It provides an economic alternative to the individual application process the facilities covered by this permit would otherwise have to face. The requirements are consistent with those already imposed by effective federal regulations and State requirements.

An economic analysis was prepared when the 40 CFR Part 503 regulations were proposed and finalized. Region 6 believes that the general permit conditions provide the same requirements as the self-implementing requirements under the 40 CFR Part 503 rule. Also Region 6 believes that this general permit is the most economical permitting option available to all TWTDS with NPDES application requirements.

V. Compliance With Other Federal Regulations

A. National Environmental Policy Act

CWA Section 511(c)(1) excludes this action from the National Environmental Policy Act of 1969.

B. Endangered Species Act

The Endangered Species Act (ESA) of 1973 requires Federal Agencies such as EPA to ensure, in consultation with the U.S. Fish and Wildlife Service (Service) that any actions authorized, funded, or carried out by the Agency (e.g., EPA issued sewage sludge permits requiring compliance with the conditions in the Part 503 regulations) are not likely to adversely affect the continued existence of any federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR Part 402 and 40 CFR Subpart 122.49(c)).

Accordingly, sewage sludge final reuse and disposal activities that are likely to adversely affect species are not eligible for permit coverage under this sewage sludge general permit.

To be eligible for coverage under the sewage sludge general permit, applicants are required to review the list of species and their locations and which are described in the instructions for completing the application requirements under this permit. If an applicant determines that none of the species identified are found in the county in which the TWTDS, surface disposal site, land application site or MSWLF is located, then there is no likelihood of an adverse effect and they are eligible for permit coverage. Applicants must then certify that their operation is not likely to adversely affect species and will be granted sewage sludge general permit coverage 48 hours after the date of the postmark on the envelope used to mail in the notification.

If species are found to be located in the same county as the TWTDS, surface disposal site, land application site, or MSWLF then the applicant next must determine whether the species are in proximity to the sites. A species is in proximity if it is located in the area of the site where sewage sludge will be generated, treated, reused or final disposed. If an applicant determines there are no species in proximity to the potential sites, then there is no likelihood of adversely affecting the species and the applicant is eligible for permit coverage.

If species are in proximity to the sites, as long as they have been considered as part of a previous ESA authorization of the applicant's activity, and the environmental baseline established in that authorization is unchanged, the applicant may be covered under the permit. For example, an applicant's activity may have been authorized as part of a section 7 consultation under ESA, covered under a section 10 permit, or have received a clearance letter. The environmental baseline generally includes the past and present impacts of all federal, state and private actions that were contemporaneous to an ESA authorization. Therefore, if a permit applicant has received previous authorization and nothing has changed or been added to the environmental baseline established in the previous authorization, then coverage under this permit will be provided.

In the absence of such previous authorization, if species are in proximity to the sites, then the applicant must determine whether there is any likely adverse effect upon the species. This is done by the applicant conducting a further examination or investigation which includes contacting the Services for a determination on potential adverse effects of endangered species. If the applicant determines that there likely is, or will likely be an adverse effect, then the applicant is not eligible for general permit coverage.

All TWTDS applying for coverage under this permit must provide in the notification to EPA the following information: (1) a determination as to whether there are any species in proximity to the sites, and (2) a certification that their sewage sludge treatment, reuse, or disposal are not likely to adversely effect species or are otherwise eligible for coverage due to a previous authorization under the ESA. Coverage is contingent upon the applicant's providing truthful information concerning certification and abiding by any conditions imposed by the permit.

TWTDS who are not able to determine that there will be no likely adverse affect to species or habitats and cannot sign the certification to gain coverage under this sewage sludge general permit, must apply to EPA for an individual sludge only permit. As appropriate, EPA will conduct ESA § 7 consultation when issuing such individual permits.

Regardless of the above conditions, EPA may require that a permittee apply for an individual sewage sludge permit on the basis of possible adverse effects on species or critical habitats. Where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species, the Service (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.

In addition, the Service may petition EPA to require that a permittee obtain an individual sewage sludge permit. The permittee is also required to make the record keeping information required by the 40 CFR Part 503 regulations and the permit available upon request to the U.S. Fisheries and Wildlife Service Regional Director, or his/her authorized representative.

These mechanisms allow for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. It significantly reduces the number of TWTDS that must be considered individually and therefore allows the Agency and the Services to focus their resources on those discharges that are indeed likely to adversely affect water-dependent listed species. Straightforward mechanisms such as these allow applicants with expedient permit coverage, and eliminates "permit limbo" for the greatest number of permitted discharges. At the same time it is more protective of endangered species because it allows both agencies to focus on the real problems, and thus, provide endangered species protection in a more expeditious manner. Prior to the publication of the public notice of this draft permit in the **Federal Register**, the Service concurred that the draft permit would not adversely affect listed species. No comments were submitted.

C. National Historic Preservation Act

The National Historic Preservation Act (NHPA) prohibits Federal actions that would affect a property that either is listed on, or is eligible for listing, on the National Historic Register. EPA therefore cannot issue permits to treatment works treating domestic sewage (including publicly owned treatment works (POTWs)) affecting historic properties unless measures will be taken such as under a written agreement between the applicant and the State Historic Preservation Officer (SHPO) outlining all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property. Therefore, under today's permit land applying, surface disposing, or disposing of sewage sludge in a municipal solid waste landfill may be covered only if the action will not affect a historic property that is listed or is eligible to be listed in the National Historic Register, or the operator has obtained and is in compliance with a written agreement signed by the State Historic Preservation Officer (SHPO) that outlines measures to be taken to mitigate or prevent adverse effects to the historic site. Prior to the publication of the public notice of this draft permit in the **Federal Register**, the Arkansas State Historic Preservation Program determined it had no objections to the general permit based on the NHPA. No comments were submitted.

D. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 [October 4, 1993]), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this general permit is not a "significant regulatory action" under the terms of Executive Order 12866.

E. Paperwork Reduction Act

The information collection required by this permit has been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control number 2040–0004 for the discharge monitoring reports. Permit application and Notice of Intent information has been assigned the OMB control number 2040–0086.

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, a Federal agency must prepare an initial regulatory flexibility analysis "for any proposed rule" for which the agency "is required by section 553 of [the Administrative Procedure Act (APA)], or any other law, to publish general notice of proposed rulemaking." The RFA exempts from this requirement any rule that the issuing agency certifies "will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA did not prepare a regulatory flexibility analysis (IRFA) for the proposed permit. EPA views issuance of a "sewage sludge only" general permit to not be subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under APA section 553 or any other law, and is thus not subject to the RFA requirement to prepare an IRFA. The EPA concluded that the permit, if issued as drafted, would not have a significant impact on a substantial number of small entities. NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general

permits are also not subject to such a requirement under the Clean Water Act (CWA). While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing."

G. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), P.L. 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, e.g., UMRA section 201, "Each agency shall . . . assess the effects of Federal regulatory actions . . . (other than to the extent that such regulations incorporate requirements specifically set forth in law)" (emphasis added)). UMRA section 102 defines "regulation" and "rule" by reference to section 658 of Title 2 of the U.S. Code, which in turn defines "regulation" and "rule" by reference to section 601(2) of the RFA. That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act (APA), or any other law. . . ."

NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the Clean Water Act (CWA). While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for UMRA purposes but are treated with rule-like procedures.

Signed this 17th day of August, 1998.

Oscar Ramirez, Jr.,

Deputy Director, Water Quality Protection Division (6WQ), EPA Region 6.

[FR Doc. 98–22652 Filed 8–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

August 18, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 24, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0819.

Title: 47 CFR 54.400—54.417, Lifeline Assistance (Lifeline) Connection Assistance (Link Up) Reporting Worksheet and Instructions.

Form Number: FCC 497.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 1,500.

Estimated Time Per Response: 3 hours.

Frequency of Response: Monthly; Quarterly; Semi-annually; and On Occasion reporting requirements.

Total Annual Burden: 42,000 hours.

Cost to Respondents: $0.

Needs and Uses: The Telecommunications Act of 1996 directed the FCC to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. On May 8, 1997, the Commission released a Report and Order on Universal Service (Universal Service Order) in CC Docket 96–45 that established new federal universal service support mechanisms consistent with Section 254. In the Universal Service Order, the Commission expanded and made competitively neutral its programs for low-income consumers, Lifeline and Link Up. On December 30, 1997, the Commission released a Fourth Order on Reconsideration that amended some of the Lifeline and Link Up rules. The following describes the universal service support reimbursement available to eligible telecommunications carriers for providing Lifeline and Link Up programs to qualifying low-income customers: Eligible telecommunications carriers are permitted to receive universal service support reimbursement for offering Lifeline service to qualifying low-income customers; eligible telecommunications carriers may receive universal service support reimbursement for the revenue they forego in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does no pay interest, in conformity with 47 CFR 54.411; eligible telecommunications carriers providing toll-limitation services (TLS) for qualifying low-income subscribers will be compensated from universal service mechanisms for the incremental cost of providing either toll blocking or toll control; and eligible telecommunications carriers that service qualifying low-income consumers who have toll blocking shall receive universal service support reimbursement for waiving the Presubscribed Interexchange Carriers Charge (PICC) for Lifeline customers. FCC Form 497 implements the Lifeline and Link Up reimbursement programs. This information is necessary in order for eligible telecommunications carriers to receive universal service support reimbursement for providing Lifeline and Link Up.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22688 Filed 8–24–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 98–146; DA 98–1624]

Inquiry Concerning Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of comment deadline.

SUMMARY: The Federal Communications Commission (FCC) *sua sponte* extended the filing period for comments on its Notice of Inquiry about the deployment of advanced telecommunications capability to all Americans. The intended effect of this action is to allow parties to have additional time in which to file comments in this proceeding.

DATES: Comments are due on or before September 14, 1998. Reply comments are still due on or before October 8, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Suite 222, Washington, DC 20554, with a copy to John W. Berresford of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, NW, Suite 399-A, Washington, DC 20054. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Parties should also file one copy of any document filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20036, (202) 857–3800.

FOR FURTHER INFORMATION CONTACT: Janice M. Myles, Policy and Program Planning Division, Common Carrier Bureau, at (202) 418–1580 or jmyles@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the *Public Notice*, DA 98–1624, released August 12, 1998, extending the time for filing comments in CC Docket 98–146. The full text of the *Public Notice* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20036, (202) 857–3800.

Summary of the Public Notice

1. In the Notice of Inquiry (Notice), the Commission solicits public comment about several aspects of the deployment of advanced telecommunications capability to all Americans in a timely and reasonable manner. The Notice set the comment filing deadline at September 8, 1998, and the reply comment filing deadline at October 8, 1998.

2. Because of the proximity of the September 8, 1998, date to certain holidays, the Commission has decided to extend the filing deadline for filing comments to September 14, while keeping the deadline for reply comments at October 8.

3. Accordingly, it is ordered that the time for filing comments in CC Docket No. 98–146 is extended by six days, until September 14, 1998.

4. This action is taken pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i) and sections §§ 1.415 and 1.430 of the Commission's rules, 47 CFR 1.415 and 1.430.

Federal Communications Commission.

Kathryn C. Brown,

Chief, Common Carrier Bureau.

[FR Doc. 98–22759 Filed 8–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Logistics, Inc., 313 West Arundel Road, Baltimore, MD 21225, Officer: Remie C. Danielson, President.

Dated: August 19, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–22702 Filed 8–24–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 8, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Allene L. Etherton, and John K. Freebern, both of Murphysboro, Illinois; to retain voting shares of First of Murphysboro Corp., Murphysboro, Illinois, and thereby indirectly retain voting shares of The First Bank and Trust Company of Murphysboro, Murphysboro, Illinois.

Board of Governors of the Federal Reserve System, August 19, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22737 Filed 8–24–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank

indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 18, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Pepperell Bancshares Financial Group, Inc., Biddeford, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Pepperell Trust Company, Biddeford, Maine.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. F.N.B. Corporation, Hermitage, Pennsylvania; to acquire 20 percent of the voting shares of Sun Bancorp, Inc., Selinsgrove, Pennsylvania, and thereby indirectly acquire Sun Bank, Selinsgrove, Pennsylvania.

C. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. The Savannah Bancorp, Inc., Savannah, Georgia; to merge with Bryan Bancorp of Georgia, Inc., Richmond Hill, Georgia, and thereby indirectly acquire Bryan Bank and Trust, Richmond Hill, Georgia.

D. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Firstar Corporation and Firstar (WI) Corporation, both of Milwaukee, Wisconsin; to merge with Star Banc Corporation, Cincinnati, Ohio, and thereby indirectly acquire Star Bank, National Association, Cincinnati, Ohio.

In connection with this application, Applicant also has applied to acquire the nonbanking subsidiaries, including The Miami Valley Insurance Company, Cincinnati. Ohio, and thereby engage in acting as principal, agent, or broker for credit related insurance, pursuant to § 225.28(b)(11)(1) of Regulation Y, Star Bank Finance, Inc., Cincinnati, Ohio, and thereby engage in making and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y; Money Station, Inc., Columbus, Ohio, and thereby engage in data processing, pursuant to § 225.28(b)(14)(i) of Regulation Y; and DJJ Leasing Limited, Cincinnati, Ohio, and thereby engage in leasing personal or real property, pursuant to § 225.28(b)(4) of Regulation Y. Applicant also applied to acquire an option to acquire 19.9 percent of Star Banc Corporation.

Star Banc Corporation, Cincinnati, Ohio, also has applied to acquire 19.9 percent of the voting shares of Firstar Corporation, Milwaukee, Wisconsin, and thereby indirectly acquire its banking and nonbanking subsidiaries.

2. Putnam County Bancorp, Inc., Hennepin, Illinois; to acquire 100 percent of the voting shares of Bank of Ladd, Ladd, Illinois.

Board of Governors of the Federal Reserve System, August 19, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22739 Filed 8–24–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Advance Bancorp, Inc., Homewood, Illinois to engage *de novo* through its subsidiary, Advance Bancorp, Inc., Homewood, Illinois, in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, August 19, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22738 Filed 8–24–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, August 31, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 21, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22941 Filed 8–21–98; 3:46 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Contract Review Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following technical review committee to meet during the month of August 1998.

Name: Technical Review Committee of the Agency for Health Care Policy and Research Medical Expenditure Panel Survey Household and Medical Provider Components.

Date and Time: August 25, 1998, 8:00 a.m.—5:00 p.m.

Place: Agency for Health Care Policy and Research, Executive Office Center, 6th Floor Conference Room, 2101 East Jefferson Street, Rockville, Maryland 20852.

This meeting will be closed to the public.

Purpose: The Technical Review Committee's charge is to provide, on behalf of the Agency for Health Care Policy and Research (AHCPR) Contracts Review Committee, recommendations to the Administrator, AHCPR, regarding the technical merit of contract proposals submitted in response to a specific Request for Proposals regarding the AHCPR Medical Expenditure Panel Survey (MEPS) Household and Medical Provider Components, announced in the Commerce Business Daily on April 6, 1998.

This contract will continue the Agency for Health Care Policy and Research's operations is support of the Medical Expenditure Panel Survey Household and Medical Provider Components. This effort consists of simultaneous data collection and data preparation activities.

The purpose of MEPS is to provide policymakers, health care administrators, businesses, researchers and others with timely, comprehensive information about health care use and costs in the United States. MEPS is unparalleled for the degree of detail in its data as well as its ability to link health expenditure and health insurance information to the demographic, employment and health status characteristics of survey respondents. Moreover, MEPS is the only national survey that provides a foundation for estimating the impact of changes in source of payment and insurance coverage on different economic groups or special populations such as the poor, elderly, families, veterans, the uninsured, and racial and ethnic minorities. The MEPS consists of several components: the Household Component (HC), Medical Provider Component (MPC), Insurance Component (IC) and the Nursing Home Component (NHC).

The objective of the MEPS Household Component and the Medical Provider Component is to produce mean and distributional estimates, at both national and regional levels, representing calendar year and cross-sectional time points for a variety of health related measures. These data are particularly important because they can be generalized to the entire civilian noninstitutionalized population, and because the survey design permits the conduct of research where families as well as individuals are the units of analysis.

Because of its uniqueness and importance, AHCPR is committed to the timely dissemination of all MEPS data products and micro data files. The timely dissemination, release and dissemination of such products and files is of the utmost importance to the overall success of the MEPS project.

Agenda: The Committee meeting will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to the above-referenced Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This action is necessary to safeguard confidential proprietary information and personal information concerning individuals associated with the proposals that may be revealed during this meeting, and to protect the free exchange of views, and avoid undue interference with Committee and Department operations.

This is accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C., Appendix 2, implementing regulations, 41 CFR 101–6.1023 and procurement regulations, 48 CFR section 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Doris Lefkowitz, Center for Cost and Financing Studies, Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 500, Rockville, Maryland 20852, telephone (301) 594–1406.

Dated: August 18, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–22719 Filed 8–24–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0707]

Dover Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dover Chemical Corp. has filed a petition proposing that the food additive regulations be amended to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polycarbonate and polyethylene phthalate polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4621) has been filed by Dover Chemical Corp., 3676 Davis Rd. NW., Dover, OH 44622. The petition proposes to amend the food additive regulations in § 178.2010 Antioxidants and/or stabilizers for polymers (21 CFR 178.2010) to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5] undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polycarbonate and polyethylene phthalate polymers intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 7, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–22747 Filed 8–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Current Science and Technology on Sprouts

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting to review the current science, including technological and safety factors, relating to sprouts and to consider measures necessary to enhance the safety of these products.

Date and Time: The meeting will be held on September 28 through 29, 1998, 8:30 a.m. to 5 p.m.

Location: The meeting will be held at Crowne Plaza Washington Hotel,

Sphinx Club Ballroom, 1375 K St. NW., Washington, DC.

Contact: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970, (e-mail) cderoeve@bangate.fda.gov.

Agenda: The purpose of this meeting is to provide a forum for discussion of the scope of the current situation, consumer perspectives, agricultural practices, the state of the science, and possible intervention strategies relating to sprouts.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), to the contact person by September 11, 1998. Interested persons may present data, information, or views orally or in writing, on the issue. Written submissions must also be made to the contact person by September 11, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 11, 1998, and be prepared to give a brief statement of the general nature of the evidence you wish to present.

If you need special accommodations due to a disability, please contact Ms. DeRoever at the above address at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: August 18, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–22718 Filed 8–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–229]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the 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:* Development of an Assessment System for post Acute Care; *Form No.:* HCFA–R–229, OMB # 0938–0720; *Use:* The Minimum Data Set-Post Acute Care (MDS–PAC) will be used to establish patient case mix groups including classes of patients in the rehabilatation facility for the payment system. It will also provide data and seek input from the rehabilitation industry for HCFA to formulate policy and promulgate regulations. *Frequency:* On occasion; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit; *Number of Respondents:* 10,465; Total Annual *Responses:* 10,465; *Total Annual Hours:* 23,301.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, 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 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–22696 Filed 8–24–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Sleep Disorders Research Advisory Board.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board Education Subcommittee Meeting.

Date: September 29, 1998.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To discuss education related priorities.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: James P. Kiley, PHD, Director, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, NIH, Rockledge Building II, Room 10038, Bethesda, MD 20892.

Name of Committee: Sleep Disorders Research Advisory Board Research Subcommittee Meeting.

Date: September 29, 1998.

Time: 6:30 p.m. to 10:00 p.m.

Agenda: To review sleep research priorities and programs.

Place: Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Maryland Room, Bethesda, MD 20892.

Contact Person: James P. Kiley, PHD, Director, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, NIH, Rockledge Building II, Room 10038, Bethesda, MD 20892.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: September 30, 1998.

Time: 9:00 a.m. to 2:30 p.m.

Agenda: To discuss recommendations on the implementation and evaluation of the National Center on Sleep Disorders research programs.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: James P. Kiley, PHD, Director, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, NIH, Rockledge Building II, Room 10038, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22712 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: August 19, 1998.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Royal Sonesta Hotel, 5 Cambridge Parkway, Cambridge, MA 02142.

Contact Person: Ken D. Kakamura, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, (301) 402–0838.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22716 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: August 20, 1998.

Time: 12:00 PM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building—Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Gerald E. Calderone, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, (301) 443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22709 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Dental Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and person information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 98–55, F30, K08 R03 Reviews.

Date: September 3, 1998.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400, (Telephone Conference Call).

Contact Person: William J. Gartland, PHD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 14, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22710 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 109(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: September 10–11, 1998.

Closed: September 10, 1998, 8:30 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: September 10, 1998, 11:00 AM to 6:00 PM.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: September 11, 1998, 8:30 AM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Sue W. Shafer, PhD, Associate Dir for Program Activities, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.821, Cell Biology and Biophysics Research; 93.375, Minority Biomedical Research Support; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22713 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel National Research Service Award Applications, NICHD, CRMC.

Date: September 10–11, 1998.

Time: 7:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Norman Chang, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22714 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: September 24–25, 1998.

Closed: September 24, 1998, 10:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Bldg, Bethesda, MD 20892–6400.

Open: September 24, 1998, 2:00 PM to 4:30 PM.

Agenda: Status report by the Director, NIA, Review Issues, and a Report of the Working Group on Program.

Place: Natcher Bldg, Bethesda, MD 20892–6400.

Open: September 25, 1998, 8:00 AM to 12:30 PM.

Agenda: Report on Biology of Aging Program Review; Positively Aging: Choices and Changes, Report on Minority Aging Task Force, Report on Task Force on Training, Program Highlights, and Comments from Retiring Members.

Place: Natcher Bldg, Bethesda, MD 20892–6400.

Contact Person: June C. McCann, Committee Management Officer, Office of Extramural Affairs, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–22715 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Meeting of the National Reading Panel

Notice is hereby given of the third Washington area meeting of the National Reading Panel. The meeting will be held on September 10, 1998, in the Phillips Ballroom of the Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC 20037. The meeting will begin at 8:00 a.m. and is expected to adjourn at 4:00 p.m. The entire meeting will be open to the public.

The National Reading Panel was requested by Congress and created by the Director of the National Institute of Child Health and Human Development in consultation with the Secretary of Education. The Panel will study the effectiveness of various approaches to teaching children how to read and report on the best ways to apply these

findings in classrooms and at home. Its members include prominent reading researchers, teachers, child development experts, leaders in elementary and higher education, and parents. The Chair of the Panel is Dr. Donald N. Langenberg, Chancellor of the University System of Maryland.

The Panel will build on the recently announced findings presented by the National Research Council's Committee on the Prevention of Reading Difficulties in Young Children. Based on a review of the literature, the Panel will: determine the readiness for application in the classroom of the results of these research studies; identify appropriate means to rapidly disseminate this information to facilitate effective reading instruction in the schools; and identify gaps in the knowledge base for reading instruction and the best ways to close these gaps.

This meeting will focus primarily on reviewing preliminary literature searches by subpanels and finalizing search criteria and research evaluation standards. A period of time will be set aside at approximately 3:00 p.m. for members of the pubic to address the Panel and express their views regarding the Panel's mission. Individuals desiring an opportunity to speak before the Panel should address their requests to F. William Dommel, Jr., Executive Director, National Reading Panel, c/o Ms. Amy Andryszak and either mail them to the Widmeyer-Baker Group, 1875 Connecticut Avenue, NW, Suite 800, Washington, DC 20009, or e-mail them to amya@twbg.com, or fax them to 202–667–0902. Requests for addressing the Panel should be received by August 31, 1998. Panel business permitting, each public speaker will be allowed five minutes to present his or her views. In the event of a large number of public speakers, the Panel Chair retains the option to further limit the presentation time allowed to each. Although the time permitted for oral presentations will be brief, the full text of all written comments submitted to the Panel will be made available to the Panel members for consideration.

For further information contact Ms. Amy Andryszak at 202–667–0901. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Amy Andryszak by August 31, 1998.

Dated: August 13, 1998.

Duane Alexander,

Director, National institute of Child Health and Human Development.

[FR Doc. 98–22717 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel Project Site Visit for Onderdonk.

Date: August 24–25, 1998.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Brigham and Women's Hospital, Boston, MA 02115.

Contact Person: William C. Branche, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: August 25, 1998.

Time: 5:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Abubakar A. Shaikh, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: August 27, 1998.

Time: 4:00 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nabeeh Mourad, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, (301) 435–1222.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: September 1, 1998.

Time: 3:00 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine Melchior, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: September 8, 1998.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Clinical Sciences Special Emphasis Panel.

Date: September 17, 1998.

Time: 10:00 AM to 12:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS–W(15).

Date: September 25, 1998.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852,

Contact Person: Dharam S. Dhindsa, DVM, PHD,, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174.

(Catalogue of Federal Domestic Assistance Program Nos. 93.333, Clinical Research,

93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, 93.306, Comparative Medicine, 93.306, National Institutes of Health, HHS)

Dated: August 18, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 98–22711 Filed 8–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–990–1020–01]

Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM) council meeting of the Upper Snake River Districts Resource Advisory Council will be held as indicated below. The agenda includes a discussion on the progress of the implementation of the healthy rangeland standard and guidelines, 1999 Focus and orientation of new council members. All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact David Howell at the Upper Snake River District Office, 1405 Hollipark Drive, Idaho Falls, ID 83401–2100, (208) 524–7559.

DATE AND TIME: Date is September 30, 1998, starts at 8:30 a.m. at the Federal Building, Basement Meeting Room B–43, 250 South 4th Avenue, Pocatello, Idaho. Public comments received from 8:30 to 9:00 a.m.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION CONTACT: David Howell at the Upper Snake River District Office, 1405 Hollipark Drive, Idaho Falls, ID 83401–2100, (208) 524–7559.

Dated: August 5, 1998.

Stephanie Hargrove,

District Manager.

[FR Doc. 98–22697 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–0777–74]

Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Alaska Resource Advisory Council Meeting.

SUMMARY: The Alaska Resource Advisory Council will conduct an open meeting Tuesday, September 22, 1998, from 9:30 a.m. until 4:30 p.m. and Wednesday, September 23, 1998, from 9 a.m. until 3 p.m. The council will review BLM land management issues and take public comment on those issues. The meeting will be held at the BLM Northern District Office, 1150 University Avenue, Fairbanks, Alaska.

Public comment will be taken from 1–2 p.m. Tuesday, September 22. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting.

ADDRESS: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–5555.

Dated: August 13, 1998.

Tom Allen,

State Director.

[FR Doc. 98–22730 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Western Gulf of Mexico; Notice of Leasing Systems, Sale 171

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the **Federal Register**:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. *Bidding systems to be used.* In the Outer Continental Shelf (OCS) Sale 171, blocks will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)), as amended: (a) bonus bidding with a fixed 16⅔-percent royalty on all unleased blocks in less than 200 meters of water; and (b)(i) bonus bidding with a fixed 16⅔-percent royalty on all unleased blocks in 200 to 400 meters of water with potential for a royalty suspension volume of up to 17.5 million barrels of oil equivalent; (ii) bonus bidding with a fixed 12½-percent royalty on all unleased blocks in 400 to 800 meters of water with potential for a royalty suspension volume of up to 52.5 million barrels of oil equivalent; and (iii) bonus bidding with a fixed 12½-percent royalty on all unleased blocks in water depths of 800 meters or more with potential for a royalty suspension volume of up to 87.5 million barrels of oil equivalent.

For bidding systems (b)(i), (ii), and (iii), the royalty suspension allocation rules are described in the Interim Rule (30 CFR Part 260) addressing royalty relief for new leases that was published in the **Federal Register** on March 25, 1996 (61 FR 12022).

a. *Bonus Bidding with a 16⅔-Percent Royalty.* This system is authorized by section (8)(a)(1)(A) of the OCSLA. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments but may yield more rewards if a commercial field is discovered. The relatively high front-end bonus payments may encourage rapid exploration.

b.(i) *Bonus Bidding with a 16⅔-Percent Royalty and a Royalty Suspension Volume (17.5 million barrels of oil equivalent).* This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. This system complies with Sec. 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (DWRRA). An incentive for development and production in water depths of 200 to 400 meters is provided through allocating royalty suspension volumes of 17.5 million barrels of oil equivalent to eligible fields.

b.(ii) *Bonus Bidding with a 12½-Percent Royalty and a Royalty Suspension Volume (52.5 million*

barrels of oil equivalent). This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. It has been chosen for blocks in water depths of 400 to 800 meters proposed for the Western Gulf of Mexico (Sale 171) to comply with Sec. 304 of the DWRRA. The 12½-percent royalty rate is used in deeper water because these blocks are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow-water blocks. The use of a royalty suspension volume of 52.5 million barrels of oil equivalent for eligible fields provides an incentive for development and production appropriate for this water depth category.

b.(iii) *Bonus Bidding with a 12½-Percent Royalty and a Royalty Suspension Volume (87.5 million barrels of oil equivalent).* This system is authorized by section (8)(a)(1)(H) of the OCSLA, as amended. It has been chosen for blocks in water depths of 800 meters or more proposed for the Western Gulf of Mexico (Sale 171) to comply with Sec. 304 of the DWRRA. The use of a royalty suspension volume of 87.5 million barrels of oil equivalent for eligible fields provides an incentive for development and production appropriate for these deep-water depths.

2. *Designation of Blocks.* The selection of blocks to be offered under the four systems was based on the following factors:

a. Royalty rates on adjacent, previously leased tracts were considered to enhance orderly development of each field.

b. Blocks in deep water were selected for the 12½-percent royalty system based on the favorable performance of this system in these high-cost areas in past sales.

c. The royalty suspension volumes were based on the water depth specific volumes mandated by the DWRRA.

The specific blocks to be offered under each system are shown on the "Lease Terms, Bidding Systems, and Royalty Suspension Areas, Sale 171" map for Western Gulf of Mexico Lease Sale 171. This map is available from the Public Information Unit, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: July 20, 1998.

Cynthia L. Quarterman,

Director, Minerals Management Service.

Approved:

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 98–22800 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico; Notice Regarding Sale 171

On August 17, 1998, the Minerals Management Service (MMS) became aware that the routine Notice of Leasing Systems for Sale 171, Western Gulf of Mexico, printed in full below, was not published in the **Federal Register** on July 24, 1998. The leasing systems in this Notice are specified in the Sale 171 Notice of Sale which MMS published in the **Federal Register** on July 24, 1998. The Sale 171 Notice of Sale identified the bidding systems used in the sale and identified the blocks offered under each system. This Notice of Leasing Systems states again the leasing and bidding terms and the reasons for selection of the specific bidding systems. These bidding systems and the reasons for their selection are the same as those published for each Gulf of Mexico OCS lease sale since Sale 157, held in April 1996 (See 61 FR 12086, March 25, 1996). The MMS sent this Notice of Leasing Systems to the Speaker of the House of Representatives and the President of the Senate on July 20, 1998.

Dated: August 20, 1998.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 98–22801 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Statements; Notice of Intent: Natchez Trace Parkway

AGENCY: National Park Service, DOI.

ACTION: Amendment to Notice of Intent to prepare a Supplement to the Final Environmental Impact Statement, Old Agency Road, Natchez Trace Parkway.

SUMMARY: On August 3, 1998, the National Park Service published a Notice of Intent to initiate a supplemental environmental impact analysis process for the construction of a segment of the Natchez Trace Parkway motor road which would affect a portion of Old Agency Road in the city of Ridgeland, Mississippi. This notice serves to amend the scope of the Draft Supplemental Environmental Impact Statement analysis area to the 0.5 mile segment of the proposed Parkway motor road associated with Old Agency Road.

FOR FURTHER INFORMATION CONTACT: Jerry Belson, Regional Director, Southeast Region, National Park Service, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303.

Dated: August 18, 1998.

Daniel W. Brown,

Regional Director, Southeast Region.

[FR Doc. 98–22722 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order #77.1: Wetland Protection and Draft Procedural Manual #77.1: Wetland Protection

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public review and comment. Draft Director's Order #77.1: Wetland Protection revises NPS policies, standards, and requirements for implementing Executive Order 11990: Protection of Wetlands. Draft Procedural Manual #77.1: Wetland Protection establishes procedures for implementing the Director's Order. These documents update, streamline, and clarify existing NPS wetland protection policies and procedures for implementing the Executive Order, which were originally published in 1980 as part of the NPS Floodplain Management and Wetland Protection Guidelines (45 FR 35916, minor revisions in 47 FR 36718).

DATES: Written comments will be accepted on or before September 24, 1998.

ADDRESSES: Draft Director's Order #77.1: Wetland Protection and draft Procedural Manual #77.1: Wetland Protection are available on the Internet at: http://www.nps.gov/refdesk/DOrders/index.htm Requests for copies and written comments should be sent to: Joel Wagner, National Park Service,

Water Resources Division, P.O. Box 25287, Denver, CO, 80225.

FOR FURTHER INFORMATION CONTACT: Joel Wagner at (303) 969–2955.

SUPPLEMENTARY INFORMATION: The NPS is revising the policies and procedures for implementing Executive Order 11990: Protection of Wetlands in conformance with the new system of NPS internal guidance documents. These updated policies and procedures will be published as Director's Order #77.1: Wetland Protection and Procedural Manual #77.1: Wetland Protection. Upon final approval of this Director's Order and the procedural manual, the existing NPS wetland protection guidance (1980 NPS Floodplain Management and Wetland Protection Guidelines), will be rescinded.

Dated: August 19, 1998.

Michael Soukup,

Associate Director, Natural Resource Stewardship and Science.

[FR Doc. 98–22724 Filed 8–24–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–383 (Preliminary) and Investigation No. 731–TA–805 (Preliminary)]

Elastic Rubber Tape From India

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–383 (Preliminary) and antidumping investigation No. 731–TA–805 (Preliminary) under sections 703(a) and 733(a), respectively, of the Tariff Act of 1930 (the Act) (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of elastic rubber tape, provided for in subheading 4008.21.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and sold in the United States at less than fair value (LTFV). Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by October 2, 1998. The Commission's views are due at the Department of Commerce within five business days thereafter, or by October 9.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: August 18, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on August 18, 1998, by Fulflex, Inc., Middletown, RI; Elastomer Technologies Group, Inc., Stuart, VA; and RM Engineered Products, Inc., North Charleston, SC.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on Tuesday, September 8, 1998, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than September 4, 1998, to arrange for their appearance. Parties in support of the imposition of countervailing or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 11, 1998, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority

These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: August 19, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–22740 Filed 8–24–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; COPS Small Community Supplemental Grant Program Application.

The Department of Justice, Office of Community Oriented Policing Services (COPS) 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 April 2, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until September 24, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written 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 the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530.

Written comments and/or 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 function 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:

(1) *Type of information collection:* Extension of previously approved collection.

(2) *The title of the form/collection:* COPS Small Community Supplemental Grant Program Application.

(3) *The agency form number, if any,and the applicable component of the Department sponsoring the collection:* None. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local or Tribal Governments.

Other: none.

The information collected will be used by the COPS Office to determine whether current COPS grantees are eligible for one time, one year grants specifically targeted for the retention of police officer positions under the following conditions: (a) the police officer was funded by a COPS Phase I, FAST or UHP grant program; AND, (b) the police officer was hired by a jurisdiction with a population under 50,000; AND (c) the police officer was hired by the jurisdiction between October 1, 1994 and September 30, 1995; AND, (d) the police officer's activities have supported public safety and crime prevention projects in those jurisdictions serving populations under 50,000.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 4000 respondents at 20 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,000 annual burden hours.

Public comment on this proposed information collection is strongly encouraged. If additional information is required contact: Ms. Brenda E. Dyer, Deputy 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: August 20, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–22755 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Analysis Protocol: Enhanced Evaluation PSP.

The Department of Justice, Office of Community Oriented Policing Services 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 April 22, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until September 24, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written 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 the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Additionally comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Written comments and/or 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 function 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:

(1) *Type of information collection:* Extension of previously approved collection.

(2) *The title of the form/collection:* Analysis Protocol: Enhanced Evaluation PSP.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form COPS 24/01. Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Local law enforcement agencies that received a Problem-Solving Partnerships (PSP) grant and that were selected to participate in an enhanced evaluation of their PSP grant.

The PSP grant is one one-year grant program designed to support local law enforcement agencies in entering collaborative agreements with non-profit community-based entities to fight a specific crime problem through an innovative community policing plan. Grants were awarded to 470 jurisdictions in 1997. As described by the PSP initiative, it was required that a minimum of 5% of awarded funds be used to assess the impact of the problem-solving approach on the target problem. Currently of COPS Office is entering into collaborative agreements with a sub-group of approximately 15 PSP grantees to fund the implementation of an enhanced evaluation. This enhanced evaluation will allow the COPS Office to document the process and outcomes of applying a problem-solving model to five problem types: auto-theft, loitering/disorderly conduct, residential burglary, robbery, and street-level drug dealing. The analysis protocol in consideration covers all areas necessary to document the processes and outcomes of sites' problem-solving projects.

Primary: State, Local or Tribal Government.

Other: none.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Enhanced Evaluation PSP: Approximately 120 respondents, at 7 hours per respondent (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 840 hours.

If additional information is required contact: Ms. Brenda Dyer, Deputy 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: August 19, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–22756 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Extension of a Currently Approved Application; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; COPS Visiting Fellowship Program application form.

The Department of Justice, Office of Community Oriented Policing Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction of 1995. The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 22, 1998 allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until September 24, 1998. 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: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies should address one or more of the following 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: COPS Visiting Fellowship Program Application Form.

(1) *Type of information collection.* Extension of previously approved collection.

(2) *The title of the form/collection.* COPS Visiting Fellowship Program Application Form.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.* Form: COPS 26/01. Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract. Applicants interested in contributing to the use and enhancement of community policing to address crime and related problems in communities across the country. Applicants may include individuals, public agencies, colleges or universities, nonprofit organizations, and profit-making organizations willing to waive their fees.

The COPS Visiting Fellowship Program is intended to offer researchers, law enforcement professionals and legal experts an opportunity to undertake independent research, program development activities and policy analysis designed to (1) improve police-citizen cooperation and communication; (2) to enhance police relationships within the criminal justice system, as well as at all levels of local government; (3) to increase police and citizens' ability to innovatively solve community problems; (4) to facilitate the restructuring of agencies to allow the fullest use of departmental and community resources; (5) to promote the effective flow and use of information both within and outside an agency; and (6) to improve law enforcement responsiveness to members of the community. Visiting fellows study a topic of mutual interest to the Fellow and the COPS Office for up to 12 months. While in residence with the COPS Office, Fellows contribute to the development of community policing programs that are national in scope.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* COPS Visiting Fellowship Program Application Form: Approximately 15 respondents, at 22 hours per respondent (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection.* Approximately 330 hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy 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: August 19, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–22757 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gary C. Hassmann, M.D.; Denial of Application

On January 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Gary C. Hassmann, M.D. of Tulsa, Oklahoma, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

1. Between February 1987 and August 1987, [Dr. Hassmann] met with DEA undercover agents on at least five occasions for the purpose of investing in a cocaine smuggling operation. During that period, [Dr. Hassmann] supplied the agents with $99,200.00 to finance the purchase of approximately fourteen kilograms of cocaine for distribution in the United States.

2. On February 19, 1988, in the United States District Court, Western District of Texas, [Dr. Hassmann] pled guilty to one felony count of traveling in interstate and foreign commerce for the purpose of distributing the proceeds of an unlawful activity. [Dr. Hassmann was] sentenced to five years imprisonment.

3. As a result of [his] conviction, on September 24, 1998, the Texas State Board of Medical Examiners revoked [his] license to practice medicine in that state. Effective February 1, 1991, the Oklahoma State Board of Medical Licensure and Supervision placed [his] state license to practice medicine on probation for a period of five years. In addition, on March 18, 1991, the New Jersey State Board of Medical Examiners revoked [his] license to practice medicine in that state.

4. [Dr. Hassmann] materially falsified [his] December 23, 1995, application for [a] DEA Certificate of Registration by failing to indicate the revocation of [his] licenses to practice medicine in Texas and New Jersey and the imposition of probation on [his] Oklahoma medical license.

5. On [his] December 23, 1995, application for [a] DEA Certificate of Registration, [Dr. Hassmann] applied for controlled substance authority in Schedules II through V. Subsequently, [he] entered into a written stipulation with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, effective September 1, 1996, in which it was agreed that [he] would be granted a limited narcotics registration on a probationary status for a period of five years. It was further agreed that during the five-year probationary period, [his] state narcotic registration would be limited to controlled substance authority in Schedules III, IV and V. Therefore, [Dr. Hassmann is] currently without authorization to handle Schedule II controlled substances in the State of Oklahoma. 21 U.S.C. 824(a)(3).

The order also notified Dr. Hassmann that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived. The DEA received a signed receipt indicating that Dr. Hassmann received the order on February 4, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Hassmann or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Hassmann is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that between February and August 1987, Dr. Hassmann met on at least five occasions with undercover DEA agents for the purpose of investing in a cocaine smuggling operation. Dr. Hassmann supplied the undercover agents with $99,200.00 to finance the purchase of approximately 14 kilograms of cocaine for distribution in the United States. Dr. Hassmann indicated that he intended to take the profits from the sale of the cocaine and reinvest the money in the purchase of an additional 40 kilograms. On August 11, 1987, Dr. Hassmann was arrested and charged with attempted possession with intent to distribute cocaine in violation of 21 U.S.C. 841(a)(1).

Ultimately, Dr. Hassmann was charged in a one count information in the United States District Court for the Western District of Texas with the use of interstate facilities to commit a crime in violation of 18 U.S.C. 1952(a)(1). The information charged that Dr. Hassmann traveled in interstate and foreign commerce with money from the Bahamas to the United States and distributed the money with intent to facilitate the attempted purchase and possession for distribution of a quantity of cocaine. Pursuant to a plea agreement filed on February 19, 1998, Dr. Hassmann pled guilty to the information and agreed to surrender his DEA and state controlled substance privileges. On March 24, 1998, Dr. Hassmann was sentenced to five years imprisonment and fined $25,000.00.

On September 24, 1988, the Texas State Board of Medical Examiners revoked Dr. Hassmann's license to practice medicine in that state based upon his conviction and his failure to practice medicine in an acceptable

manner. Therefore, the New Jersey Board of Medical Examiners revoked Dr. Hassmann's license to practice medicine in New Jersey on March 18, 1991, based upon his conviction and the revocation of his Texas medical license.

On February 21, 1991, the Oklahoma Medical Board granted Dr. Hassmann a probationary license to practice medicine in that state subject to various conditions for five years, one of which was to refrain from alcohol and drug consumption. In 1994, upon Dr. Hassmann's request, the term regarding abstinence from alcohol was lifted. One month later, he was arrested and charged with first degree residential burglary and driving under the influence of alcohol. Dr. Hassmann pled guilty to the charges and received a one year deferred sentence. On September 6, 1996, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control granted Dr. Hassmann a limited license to handle controlled substances in Schedules III through V only, and placed him on probation until September 2001.

On March 23, 1995, Dr. Hassmann submitted an application for registration with DEA. On the application, Dr. Hassmann answered "No" to a question (hereinafter referred to as the liability question) which asks whether "the applicant ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?" Dr. Hassmann provided this response despite the revocation of his medical licenses in Texas and New Jersey in 1988 and 1991 respectively, and the granting of a probationary medical license in Oklahoma in 1991.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may given each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (1989).

Regarding factor one, Dr. Hassmann's state medical licenses in Texas and New Jersey have been revoked. He is now applying for DEA registration in Oklahoma. While he is currently authorized to practice medicine and handle Schedule III through V controlled substances in Oklahoma, such authorization is not dispositive of whether he should be issued a DEA registration in that state. The recommendation of the state licensing authority is only one of the factors to be considered in determining the public interest.

As to factor two, there is no evidence before the Acting Deputy Administrator regarding Dr. Hassmann's experience in dispensing or conducting research with controlled substances.

Regarding factor three, Dr. Hassmann was ultimately convicted of the use of interstate facilities to commit a crime, however this conviction related to the unlawful distribution of cocaine.

As to Dr. Hassmann's compliance with controlled substance laws, it is undisputed that he participated in a scheme to illegally distribute large quantities of cocaine in violation of 21 U.S.C. 841(a)(1). In addition, under 21 U.S.C. 843(a)(4)(A), it is "unlawful for any person knowingly or intentionally—to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter of subchapter II of this chapter." Answers to the liability questions on applications for registration are material, since DEA relies upon such answers to determine whether an investigation is needed prior to granting the application. See Ezzat E. Majd Pour, M.D., 55 FR 47,547 (1990). The Acting Deputy Administrator concludes that Dr. Hassmann materially falsified his application for registration by answering "No" to the question which asks in part whether he had even had a state license revoked or placed on probation, when his licenses in Texas and New Jersey were revoked, and his Oklahoma license was placed on probation.

Based upon the above, the Acting Deputy Administrator concludes that Dr. Hassmann's registration with DEA would be inconsistent with the public interest. Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration, executed by Gary C. Hassmann, M.D., be, and it hereby is, denied. This order is effective September 24, 1998.

Dated: August 14, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–22686 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 27, 1998, National Center for Development of Natural Products, The University of Mississippi, 135 Cox Waller Complex, University, Mississippi 38677, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The firm plans to bulk manufacture for product development.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 26, 1998.

Dated: August 14, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–22684 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–20]

Alan R. Schankman, M.D.; Grant of Registration

On June 3, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alan R. Schankman, M.D., (Respondent) of California, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

1. Between June 1988 and August 1989, you submitted numerous claims in excess of $56,000 to Medicare, by billing for services that were not rendered, and as a result, you obtained fees to which you were not entitled.

2. As a result of your billing practices, on January 28, 1991, in the Superior Court of the State of California for the County of Los Angeles, you were charged by information with 32 felony counts of grand theft, and four felony counts of attempted grand theft. Following a jury trial, on December 17, 1991, you were convicted on all 36 counts, and subsequently sentenced to 16 months imprisonment, a fine of $330,000, a penalty assessment of $264,000, and ordered to pay restitution of $56,000 to the United States government. On April 7, 1994, the Court of Appeals of the State of California, Second Appellate District, affirmed your criminal conviction.

3. As a result of your conviction, on May 8, 1992, you were notified by the Department of Health and Human Services of your ten-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a-7(a).

4. On September 20, 1993, the Medical Board (Board) of California brought an accusation against your license to practice medicine in that State. Following your entering into a stipulation with the Board, on June 28, 1995, the Board ordered, *inter alia*, the revocation of your medical license, however, the revocation was stayed, and your medical license was suspended for one year followed by probation for a period of five years.

By letter dated July 1, 1997, Respondent requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed by Administrative Law Judge Gail Randall. On July 10, 1997, Judge Randall issued an Order for Prehearing Statements, which cautioned "that failure to file timely a prehearing statement as directed above may be considered a waiver of hearing and an implied withdrawal of a request for hearing." In an Order dated August 26, 1997, Judge Randall advised the parties that she had not yet received a prehearing statement from Respondent. Respondent was given until September 19, 1997, to file his prehearing statement and was again warned that "[i]f Respondent fails to file a prehearing statement by this date, I will consider his inaction a waiver of his right to a hearing and a withdrawal of his request for hearing." On September 22, 1997, Judge Randall terminated the proceedings before her, since Respondent failed to file a prehearing statement, and was therefore deemed to have waived his right to a hearing.

The Acting Deputy Administrator finds that Respondent has waived his right to a hearing and therefore now enters his final order without a hearing and based upon the investigative file pursuant to 21 CFR 1301.43(e) and 1301.46.

The Acting Deputy Administrator finds that the Department of Health and Human Services conducted an investigation of Respondent that revealed that Respondent billed Medicare and Medi-Cal for services not rendered. As a result, on December 17, 1991, Respondent was convicted in the Superior Court of the State of California for the County of Los Angeles of 32 felony counts of grand theft and 4 felony counts of attempted grand theft. Respondent was sentenced to 16 months imprisonment on each count to run concurrently, fined $330,000 and a $264,000 penalty assessment, and ordered to make restitution to the United States in the amount of $56,000.

By letter dated May 8, 1992, the Department of Health and Human Services (DHHS) notified Respondent that pursuant to 42 U.S.C. 1320a-7(b) he was being excluded for 10 years from participation in the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs.

In a Decision effective September 21, 1995, the Medical Board of California revoked the Physician's and Surgeon's Certificate of Respondent, but stayed the revocation and placed him on probation for five years. As part of the probation, Respondent was suspended from the practice of medicine for one year beginning on December 14, 1994.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriation State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (1989).

In addition, it is well-settled that the Deputy Administrator may deny an application for registration if a basis exists for revocation of a registration under 21 U.S.C. 824(a). It would be a useless act to grant a registration and then immediately initiate proceedings to revoke the registration. See Dinorah Drug Store, Inc., 61 FR 15,972 (1996); Kuen H. Chen, M.D., 58 FR 65,401 (1993). A registration may be revoked by the Deputy Administrator pursuant to 21 U.S.C. 824(a) upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42.

The Acting Deputy Administrator first considers whether there is a basis pursuant to 21 U.S.C. 824(a) for the denial of Respondent's application for registration. There is no evidence in the investigative file to support a finding that Respondent has materially falsified an application for registration, that he has been convicted of a controlled

substance related offense, or that he is not currently authorized to handle controlled substances in the state in which he practices.

The Order to Show Cause filed in this matter seems to suggest that there is a basis for denial of Respondent's application pursuant to 21 U.S.C. 824(a)(5), which provides for revocation of a registration if a registrant has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42. Specifically, the Order to Show Cause alleges that, "[a]s a result of your conviction, on May 8, 1992, you were notified by the Department of Health and Human Services of your ten-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a–7(a)." However, a careful review of the May 8, 1992 letter from DHHS to Respondent indicates that he was not mandatorily excluded pursuant to 42 U.S.C. 1320a–7(a). Instead, Respondent's exclusion from the Medicare program was pursuant to 42 U.S.C. 1320a–7(b). Therefore, there is no basis for the denial of Respondent's application pursuant to 21 U.S.C. 824(a)(5).

Next, the Acting Deputy Administrator considers whether Respondent's registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4). Only factors one and five are relevant, since there is no evidence in the investigative file regarding Respondent's experience in dispensing controlled substances, his conviction record, if any, relating to controlled substances or his compliance with controlled substance laws.

As to factor one, Respondent is currently authorized to practice medicine, and therefore handle controlled substances in California, but is on probation for approximately two more years. Regarding factor five, Respondent's conduct in 1988 and 1989 causes concern as to his future conduct if entrusted with a DEA registration. However, the Acting Deputy Administrator concludes that it would not be in the public interest to deny Respondent's application for registration. Respondent's misconduct occurred in 1988 and 1989. His exclusion by DHHS from the Medicare program was permissive and not mandatory, and the State of California allowed him to continue practicing medicine.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him pursuant to 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration submitted by Alan R. Schankman, M.D., be, and it hereby is granted. This order is effective upon issuance of the DEA Certificate of Registration, but not later than September 24, 1998.

Dated: August 14, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–22685 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Notice of Immigration Pilot Program.

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 October 26, 1998.

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:* Notice of Immigration Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form number. 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 is used by the Service to determine participants in the Pilot Immigration program provided for by section 610 of the Appropriations Act. The Service will select regional center(s) that are responsible for promoting economic growth in a geographical area.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 40 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,000 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 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, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 19, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22743 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Election Form to Participate in an Employment Eligibility Confirmation Pilot Program.

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 October 26, 1998.

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:* Election Form to Participate in an Employment Eligibility Confirmation Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–876. SAVE Program. Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The information gathered from employers will assist the INS in allocating resources and priorities in conducting the three pilot programs mandated by Pub. L. 104–208. The company information is needed to contact employers so INS and SSA can send appropriate documents for participation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200,000 responses at 1 hour and 30 minutes (1.5) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 300,000 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 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, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 9, 1998.

Robert B. Briggs,

Department of Clearance Officer, United States Department of Justice.

[FR Doc. 98–22744 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; Petition for Amerasians, widow or special immigrant.

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 October 26, 1998

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: Reinstatement without change of previously approved collection which has expired.*

(2) *Title of the Form/Collection:* Petition of Amerasians, Widow or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–360. 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 is used to determine eligibility or to classify an alien as an Amerasian, widow or widower, battered or abused spouse or child and special immigrant, including religious worker, juvenile court dependent and armed forces member.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,397 at two (2) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,794 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, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22753 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; Document verification request and Document verification request supplement.

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 October 26, 1998.

Writen 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: Reinstatement without change of previously approved collection which has expired.*

(2) *Title of the Form/Collection:* Document Verification Request and Document Verification Request Supplement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms G–845 and G–845 Supplement, SAVE, 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 an integral part of the Systematic Alien Verification for Entitlement (SAVE) Program. It provides direct access to the automated Alien Status Verification Index (ASVI) system.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 500,000 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 41,500 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 Office, 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: August 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22754 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; petition to remove conditions on residence.

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 October 26, 1998.

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:* Reinstatement without change of previously approved collection which has expired.

(2) *Title of the Form/Collection:* Petition to Remove Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–751. 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. Persons granted conditional residence through marriage to a United States citizen or permanent resident use this form to petition for the removal of those conditions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 128,889 at 80 minutes (1.33) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 171,422 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, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22803 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Haitian Deferred Enforced Departure (DED) Supplement to Form I–765.

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 October 26, 1998.

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 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:* Haitian Deferred Enforced Departure (DED) Supplement to Form I–765.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–765D. 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. The date collected on this form is used by the INS to determine eligibility for the requested benefit, pursuant to the requirements of the Presidential Order. The data will enable Center Adjudications Officers at four remote sites to adjudicate the underlying benefit applications without the need of requiring individual interviews in local INS offices in most cases.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 40,000 responses at 1 hour per response.

(6) *An estimate of the total burden (in hours) associated with the collection:* 40,000 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 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 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, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22804 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; NACARA Supplement to Form I–485.

The Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 2, 1998 at 63 FR 16276, allowing for emergency review with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until; September 24, 1998. This process is conducted in accordance with 5 CFR part 1320.10.

Written 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 the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies 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 information collection.

(2) *Title of the Form/Collection:* NACARA Supplement to Form I–485.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–485, Supplement B. Office of Programs, 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. The collection of this information is necessary for the INS to determine whether an applicant for adjustment of status under the provisions of section 202 of Public Law 105–100 is eligible to become a permanent resident of the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50,000 responses at .25 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 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 Mr. 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, N.W., Washington, DC 20536.

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: August 19, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–22742 Filed 8–24–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How To Enhance and Encourage the Establishment of Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, September 8, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 4:00 p.m., is for Working Group members to conclude taking testimony on the topic and to begin formulating their report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 4.

Signed at Washington, DC this 19th day of August 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–22771 Filed 8–24–98; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group Established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Tuesday, September 8, 1998, in Room N–4437 C&D, U.S. Department of Labor Building, Second

and Constitution Avenue, NW, Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to conclude taking testimony on the topic and to begin formulating their report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC, this 19th day of August, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–22772 Filed 8–24–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Retirement Plan Leakage—Cashing In Your Future From ERISA Employer-Sponsored Pension Plans, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, September 9, 1998, of the Retirement Plan Leakage—Cashing in Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distributions, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, D.C. 20210, is for Working Group members to conclude taking testimony on the import of these "pension preservation" issues and to begin formulating their report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC this 19th day of August 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–22773 Filed 8–24–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

The One-hundred and Third Full Open Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Wednesday, September 9, 1998, of the Advisor Council on Employee Welfare and Pension Benefits Plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 2:30 p.m., is for the Advisory Council's full membership to be updated on its new working groups' progress on their topics of study as well as on regulatory and enforcement projects being undertaken by the Pension and Welfare Benefits Administration (PWBA).

Members of the public are encouraged to file a written statement pertaining to the Council's three topics for study by submitting 20 copies on or before September 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. The topics being studied include:

(a) Disclosure of the Quality of Health Care Plans;

(b) Small Business: How to Enhance and Encourage the Establishment of Pension Plans, and

(c) Pre-retirement Distribution from Employer-Sponsored ERISA Plans.

Individuals or representatives or organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1.

Signed at Washington, DC this 19th day of August, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–22774 Filed 8–24–98; 8:45 am]

BILLING CODE 4510–29–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

August 21, 1998.

TIME AND DATE: This meeting will commence immediately following the conclusion of the meeting starting at 10:00 a.m., Friday, August 28, 1998, to consider *Secretary of Labor* v. *White Oak Mining & Constr. Co.,* Docket No. WEST 96–338.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS Open.

MATTERS TO BE CONSIDERED: The commission will consider and act upon the following:

1. *Secretary of Labor* v. *Lone Mountain Processing, Inc.,* Docket No. KENT 98–254–D. (Issues include whether the Mine Act's temporary reinstatement remedy applies to an applicant for employment.)

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 98–22944 Filed 8–21–98; 3:50 pm]

BILLING CODE 6735–01–M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee will be held on Thursday, September 10, 1998, from 9:00 a.m. to 11:00 a.m. The Business Session will be held at the Department of State, 2101 C Street, NW, Washington, DC. The agenda is as follows:

—Call to Order/Welcoming Remarks
—Industry Executive Subcommittee Report
—Critical Infrastructure Protection Briefing
—Defense Initiatives in Infrastructure Protection Briefing
—Year 2000 Problem
—Adjournment

Due to the potential requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6134 or write the Manager, National Communications System, 701 South Court House Road, Arlington, VA 22204–2198.

Frank McClelland,

Technology and Standards Division (N6).

[FR Doc. 98–22781 Filed 8–24–98; 8:45 am]

BILLING CODE 8001–08–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

NOTICE OF MEETING

TIME AND DATE: 10:00 a.m., Monday, August 31, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Proposed Chartering and Field of Membership Policies.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–22942 Filed 8–21–98; 3:42 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request Title of Collection: Survey of Public Attitudes Toward and Understanding of Science and Technology (OMB Control No. 3145–0033)

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed information collection.

FOR FURTHER INFORMATION CONTACT: Call or write F. Neville Withington for a copy of the collection instrument and instructions at NSF Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd. Suite 295, Arlington, VA 22230; call (703) 306–1125, x2004; or send email to fwithing@nsf.gov.

SUPPLEMENTARY INFORMATION

1. Abstract

The proposed continuing information collection is a survey used to monitor public attitudes towards science and technology, including the public's level of scientific understanding and policy preferences on selected issues. This telephone survey has been conducted approximately every two years for more than 20 years, and the information collected with it appears in the congressionally-mandated National Science Board biennial report, Science and Engineering Indicators, and other publications. Information on public attitudes and understanding of science and technology is used by government and nongovernment policy makers in developing and designing science and education programs and by researchers in government, industry, and academia. The proposed collection will occur in early 1999.

2. Expected Respondents

The survey will be conducted by telephone. Using state-of-the-art, computer-assisted telephone interviewing software and random digit dialing, approximately 2000 adults will be contacted and asked a series of questions designed to measure their attitudes towards science and technology and their understanding of scientific concepts.

3. Burden on the Public

The estimated respondent burden is 1000 hours. This estimate is based on the completion of 2000 telephone interviews with an average length of 30 minutes each.

Comments Requested

DATES: NSF should receive written comments on or before October 26, 1998.

ADDRESSES: Submit written comments to Ms. Withington through surface mail (NSF Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd. Suite 295, Arlington, VA. 22230); email (fwithing@nsf.gov); or fax (703–306–0250).

Special Areas for Review

NSF especially requests comments on:

1. whether the proposed collection of information is necessary for the proper performance of the functions of the

Agency, including whether the information shall have practical utility;

2. the accuracy of the Agency's estimate of the burden of the proposed collection of information;

3. ways to enhance the quality, utility, and clarity of the information to be collected; and

4. ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, e.g., permitting electronic submission of responses.

Dated: August 20, 1998.

F. Neville Withington,

Acting NSF Reports Clearance Officer.

[FR Doc. 98–22770 Filed 8–24–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Graduate Education; Notice of Meeting

In accord 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 Graduate Education (57).

Date & Time: September 10 & 11, 1998, 8:00 a.m. to 5:00 p.m. each day.

Place: NSF, Room 1235, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Paul W. Jennings, Program Director, IGERT, Room 907N, National Science Foundation, 4201 Wilson Blvd., Arlington, Va. 22230, telephone (703) 306–1696.

Purpose of Meeting: To provide advice and recommendations concerning pre-proposals submitted to NSF for financial support.

Agenda: To review and evaluate preproposals submitted to the NSF Integrative Graduate Education and Research Training (IGERT) program as part of the selection process for awards.

Reason for Closing: The preproposals 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 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: August 19, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–22799 Filed 8–24–98; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider matters relating to administration and the price regulation.

DATES: The meeting is scheduled for Wednesday, September 2, 1998 to commence at the close of the Proposed Rulemaking Public Hearing beginning at 9:00 a.m. as previously noticed at 63 FR 43891, August 17, 1998.

ADDRESSES: The meeting will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, NH.

FOR FURTHER INFORMATION CONTACT: Kenneth Becker, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Commission will consider matters relating to administration and the price regulation, including the reports and recommendations of the Commission's standing and ad hoc Committees.

(**Authority:** (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and 7 U.S.C. 7256.)

Kenneth Becker,

Executive Director.

[FR Doc. 98–22735 Filed 8–24–98; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

Baltimore Gas & Electric Company; Establishment of Atomic Safety and Licensing Board

[Docket Nos. 50–317–LR and 50–318–LR, ASLBP No. 98–749–01–LR]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for hearing and for leave to intervene and to preside over the proceeding in the event that a hearing is ordered.

Baltimore Gas & Electric Company

[Calvert Cliffs Nuclear Power Plant, Units 1 and 2 Facility Operating Licenses No. DPR–53 and DPR–69]

This Board is being established pursuant to a notice published by the Commission on July 8, 1998, in the **Federal Register** (63 FR 36,966) and the Commission's Order Referring Petition for Intervention and Request for Hearing to Atomic Safety and Licensing Board Panel, CLI–98–14 (August 19, 1998). The proceeding involves an application by Baltimore Gas & Electric Company to renew operating licenses for its Calvert Cliffs Nuclear Power Plant Units 1 and 2 pursuant to the provisions of 10 CFR Part 54. The renewal license, if granted, would authorize the applicant to operate those units for an additional 20 year period.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR § 2.701.

Issued at Rockville, Maryland, this 19th day of August 1998.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 98–22763 Filed 8–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Cintichem, Inc. (Cintichem, Inc. 5 Megawatt Open Pool Research Reactor); Order Terminating Facility License

[Docket No. 50–54]

By application dated October 19, 1990, Cintichem, Inc. (the licensee) requested from the U.S. Nuclear Regulatory Commission (the Commission) authorization to dismantle and dispose of the component parts of its 5 Megawatt Open Pool Research Reactor located in Tuxedo, New York. A "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License"

was published in the Federal Register on January 14, 1991 (56 FR 1422). One request for a hearing was made on February 14, 1991, by the New York State Department of Environmental Conservation (DEC) to assure that DEC's interest in the decommissioning process can be adequately represented. The hearing request was withdrawn on March 13, 1991, after an agreement with Cintichem and the Staff of the Nuclear Regulatory Commission, which covered DEC's involvement with respect to the Decommissioning Activities.

By Order dated November 21, 1991 (56 FR 60124), the Commission authorized dismantling of the facility and disposition of component parts as proposed in the decommissioning plan of the licensee. Changes to the decommissioning plan were subsequently made (see Environmental Assessment and Finding of No Significant Impact which was published in the Federal Register on August 19, 1998 (63 FR 44476). By letters dated January 26, 1995, March 3, 1995, March 26, April 19 and June 7, 1996, June 6 and 27, 1997, July 3 and 30, 1997, and September 22, 1997, the licensee submitted the radiological survey reports for the facility in accordance with the approved decommissioning plan as amended. Confirmatory radiological surveys verified that the facility met the Commission's approved decommissioning plan requirements for release of the facility for unrestricted use. The reactor fuel has been removed from the facility and shipped to a Department of Energy facility, and other radioactive material stored on site has been removed from the facility.

Accordingly, the Commission has found that the facility has been dismantled and decontaminated pursuant to the Commission's Order dated November 21, 1991 as supplemented. Satisfactory disposition has been made of the component parts and fuel in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common defense and security, or to the health and safety of the public. Therefore, based on the application filed by the licensee, and pursuant to Sections 104 and 161 b, and i, of the Atomic Energy Act of 1954, as amended, and in accordance with 10 CFR 50.82(b)(6), Facility License No. R–81 is terminated as of the date of this Order.

In accordance with 10 CFR Part 51, the Commission has determined that the issuance of this termination Order will have no significant environmental impact. The Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on August 19, 1998 (63 FR 44476).

For further details with respect to this action see (1) the application for termination of Facility License No. R–81, dated October 19, 1990, as supplemented, (2) the Commission's Safety Evaluation related to the termination of the license, (3) the Environmental Assessment and Finding of No Significant Impact, and (4) the "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License," published in the Federal Register on January 14, 1991 (56 FR 1422). Each of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20003–1527.

Copies of items (2), (3), and (4) may be obtained upon receipt of a request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, Attention: Director, Division of Reactor Program Management.

Dated at Rockville, Maryland, this 19th day of August 1998.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22764 Filed 8–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board Panel; Limited Appearances; Prehearing Conference; Other Events

[Docket No. 40–8968–ML, Re: Leach Mining and Milling License, ASLBP No. 95–705–01–ML]

In the matter of: HYDRO RESOURCES, INC., (2929 Coors Road, Suite 101, Albuquerque, New Mexico 87120).

Pursuant to 10 CFR 2.1211(a), on September 15, 1998, from 1:00 PM to 4:30 PM and 7:00 PM to 9:30 PM, limited appearance sessions will be held in the South Gym, Crownpoint Community School, State Rd. 371, Building No. 3001, South Gym, Crownpoint, New Mexico 87313 ("South Gym"). This facility belongs to the Eastern Navajo Agency, Office of Indian Education Programs.

Statements may be made by members of the public at this session. The statements will not be a part of the decisional record. Only the parties who have been admitted in this case may place material into the formal record. When speakers make important points, relevant to pending areas of concern, the parties may introduce the arguments and the facts into the record in compliance with established procedures. People wishing to speak at the limited appearance session will, at the outset of each session, present to me a written statement containing their name and address and declaring whether they are able to speak in English; non-English speakers may speak in Navajo.[1] (Those who cannot write and cannot get someone to prepare a written statement for me may ask orally to make a limited appearance statement.)

Six minutes will be allotted to each speaker, subject to overall limitations of time. Speakers wishing to extend their remarks to ten minutes shall explain in their written request why they need the additional time and shall begin their remarks by requesting the Presiding Officer to grant an extension for that purpose. Speakers who must use the Navajo language shall have twice the allotted time, so that I may hear the English translation.

On September 16, 1998 the parties and the Presiding Officer will take a bus tour of the site. A limited amount of space may be available on the bus for the press or the public, in exchange for the cost of the seat. Members of the public wishing to accompany the Presiding Officer may also follow the bus, but there is no assurance concerning how much of the conversation with the Presiding Officer will be audible for the general public.

A scheduling conference, open to the public, will be held in the South Gym beginning at 9:00 AM on September 17, 1998. The expected duration of this conference is less than three hours.

Rockville, Maryland, August 19, 1998.

It is so Ordered.

Peter B. Bloch,

Administrative Judge, Presiding Officer.

[FR Doc. 98–22762 Filed 8–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 24, 31, September 7, and 14, 1998.

[1] A Navajo translator is expected to be available.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 24

Tuesday, August 25

10:00 a.m. Briefing on 10 CFR Part 70—Proposed Rulemaking, "Revised Requirements for the Domestic Licensing of Special Nuclear Material", (PUBLIC MEETING) (Contact: Elizabeth Ten Eyck, 301–415–7212).

Wednesday, August 26

10:00 a.m. Briefing by Executive Branch (Closed—Ex. 1).
2:00 p.m. Briefing on Status of Activities with CNWRA and HLW Program (PUBLIC MEETING) (Contact: Mike Bell, 301–415–7286).
3:30 p.m. Affirmation Session (PUBLIC MEETING) (if needed).

Week of August 31—Tentative

Wednesday, September 2

10:00 a.m. Briefing on PRA Implementation Plan (PUBLIC MEETING) (Contact: Tom King, 301–415–5828).
11:30 a.m. Affirmation Session (PUBLIC MEETING). (if needed)

Thursday, September 3

10:00 a.m. and 1:30 p.m. All Employees Meetings (PUBLIC MEETINGS) on "The Green" Plaza Area between buildings at White Flint (Contact: Bill Hill—301–415–1661).

Week of September 7—Tentative

Thursday, September 10

3:30 p.m. Affirmation Session (PUBLIC MEETING) (if needed).

Week of September 14—Tentative

Tuesday, September 15

2:00 p.m. Briefing by Reactor Vendors Owners' Groups (PUBLIC MEETING) (Contact: Bryan Sheron, 301–415–1274).
3:30 p.m. Affirmation Session (PUBLIC MEETING) (if needed).

Thursday, September 17

9:00 p.m. Briefing on Investigative Matters (Closed—Ex. 5 and 7).

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 3–0 on August 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Commission Order Referring Request for Hearing on Baltimore Gas and Electric Company's Application for License Renewal to the Atomic Safety and Licensing Board Panel" (PUBLIC MEETING) be held on August 19, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: August 21, 1998.

William M. Hill, Jr.,

Secy Tracking Officer, Office of the Secretary.

[FR Doc. 98–22913 Filed 8–21–98; 2:52 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Use Licenses, Availability of Draft NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of and requesting comment on draft NUREG–1556, Volume 9, "Consolidated Guidance about Materials Licenses: Program-Specific Guidance About Medical Use Licenses," dated August 1998. This draft guide has been developed in parallel with the proposed revision of 10 CFR Part 35, "Medical Use of Byproduct Material." Comments received in response to publication of this draft will be considered in developing the final guide. Finalization of the guidance will continue to parallel the rulemaking; resulting in a guidance document that is consistent with the final rule. It is intended for use by applicants, licensees, NRC license reviewers, and other NRC personnel.

This draft guidance, where applicable, provides a more risk-informed, performance-based approach to medical use licensing consistent with the proposed regulations. It combines and supersedes the guidance previously found in Regulatory Guide (RG) 10.8, Revision 2, "Guide for the Preparation of Applications for Medical Use Programs"; Appendix X to RG 10.8, Revision 2, "Guidance on Complying With New Part 20 Requirements"; Draft RG DG–0009, "Supplement to Regulatory Guide 10.8, Revision 2, Guide for the Preparation of Applications for Medical Use Programs"; Draft RG FC 414–4, "Guide for the Preparation of Applications for Licenses for Medical Teletherapy Programs"; Policy and Guidance Directive (P&GD) FC 87–2, "Standard Review Plan for License Applications for the Medical Use of Byproduct Material"; P&GD FC 86–4, Revision 1, "Information Required for Licensing Remote Afterloading Devices"; Addendum to Revision 1 to P&GD FC 86–4, "Information Required for Licensing Remote Afterloading Devices-Increased Source Possession Limits"; P&GD 3–15, "Standard Review Plan for Review of Quality Management Programs"; RG 8.39, "Release of Patients Administered Radioactive Materials"; RG 8.33, "Quality Management Program"; P&GD 3–17, "Review of Training and Experience Documentation Submitted by Proposed Physician User Applicants"; and RG 8.23, "Radiation Safety Surveys at Medical Institutions, Revision 1".

This draft guide has been distributed for public comment to encourage participation in its development. It is NOT for use in preparing or reviewing applications until it is published in final form. This guidance represents the current position of NRC staff, which is subject to change after the review of public comments. Comments received will be considered in developing the final guide that represents the official NRC staff position.

DATES: The comment period ends on November 12, 1998, to be consistent with the rulemaking. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver

comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to DLM1@NRC.GOV.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 9, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to slm2@nrc.gov. A copy of draft NUREG–1556, Volume 9, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7874; electronic mail address: slm2@nrc.gov.

Electronic Access

Draft NUREG–1556, Vol. 9 will be available electronically by visiting NRC's Home Page (http://www.nrc.gov/NRC/nucmat.html) approximately two weeks after the publication date of this notice.

Dated at Rockville, Maryland, this 17th day of August, 1998.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–22765 Filed 8–24–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1998

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of August 1, 1998, of 25 rescission proposals and eight deferrals contained in three special messages for FY 1998. These messages were transmitted to Congress on February 3, February 20, and July 24, 1998.

Rescissions (Attachments A and C)

As of August 1, 1998, 25 rescission proposals totaling $25 million had been transmitted to the Congress. Congress approved 21 of the Administration's rescission proposals in P.L. 105–174. A total of $17.3 million of the rescissions proposed by the President was rescinded by that measure. Attachment C shows the status of the FY 1998 rescission proposals.

Deferrals (Attachments B and D)

As of August 1, 1998, $2,449 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1998.

Information from Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the editions of the **Federal Register** cited below:

63 FR 7004, Wednesday, February 11, 1998
63 FR 10076, Friday, February 27, 1998
63 FR 41303, Monday, August 3, 1998

G. Edward DeSeve,

Deputy Director for Management.

Attachments

ATTACHMENT A—STATUS OF FY 1998 RESCISSIONS

[in millions of dollars]

	Budgetary resources
Rescissions proposed by the President	25.3
Rejected by the Congress	.....
Amounts rescinded by P.L. 105–174, the FY 1998 Supplemental Appropriations and Rescissions Act	–17.3
Currently before the Congress	8.0

ATTACHMENT B—STATUS OF FY 1998 DEFERRALS

[in millions of dollars]

	Budgetary resources
Deferrals proposed by the President	4,833.0
Routine Executive releases through August 1, 1998 (OMB/Agency releases of $2,384.1 million, partially offset by cumulative positive adjustment of $0.3 million)	–2,383.8
Overturned by the Congress	.....
Currently before the Congress	2,449.2

BILLING CODE 3110–01–P

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of August 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Agricultural Research Service	R98-1		223	2-20-98	223	4-28-98	223	P.L. 105-174
Animal and Plant Health Inspection Service								
Salaries and expenses	R98-2		350	2-20-98	350	4-28-98	350	P.L. 105-174
Food Safety and Inspection Service								
Salaries and expenses	R98-3		502	2-20-98	502	4-28-98	502	P.L. 105-174
Grain Inspection, Packers and Stockyards Administration								
Salaries and expenses	R98-4		38	2-20-98	38	4-28-98	38	P.L. 105-174
Agricultural Marketing Service								
Marketing services	R98-5		25	2-20-98	25	4-28-98	25	P.L. 105-174
Farm Service Agency								
Salaries and expenses	R98-6		1,080	2-20-98	1,080	4-28-98	1,080	P.L. 105-174
Natural Resources Conservation Service								
Conservation operations	R98-7		378	2-20-98	378	4-28-98	378	P.L. 105-174
Rural Housing Service								
Salaries and expenses	R98-8		846	2-20-98	846	4-28-98	846	P.L. 105-174
Food and Nutrition Service								
Child nutrition programs	R98-9		114	2-20-98	1/			
Forest Service								
National forest systems	R98-10		1,094	2-20-98	1,094	4-28-98	1,094	P.L. 105-174
Reconstruction and construction	R98-11		30	2-20-98	30	4-28-98	30	P.L. 105-174
Forest and rangeland research	R98-12		148	2-20-98	148	4-28-98	148	P.L. 105-174
State and private forestry	R98-13		59	2-20-98	59	4-28-98	59	P.L. 105-174
Wildland fire management	R98-14		148	2-20-98	148	4-28-98	148	P.L. 105-174

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of August 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Rescission Number	Amounts Pending Before Congress: Less than 45 days	Amounts Pending Before Congress: More than 45 days	Date of Message	Previously Withheld and Made Available	Date Made Available	Amount Rescinded	Congressional Action
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R98-15		1,188	2-20-98			1,188	P.L. 105-174
Oregon and California grant lands	R98-16		2,500	2-20-98			2,500	P.L. 105-174
Mineral leasing and associated payments	R98-25	5,200		7-24-98				
Bureau of Reclamation								
Water and related resources	R98-17		532	2-20-98	1/			
Bureau of Mines								
Mines and minerals	R98-18		1,605	2-20-98			1,605	P.L. 105-174
United States Fish and Wildlife Service								
Construction	R98-19		1,188	2-20-98			1,188	P.L. 105-174
National Park Service								
Construction	R98-20		1,638	2-20-98			1,638	P.L. 105-174
Bureau of Indian Affairs								
Construction	R98-21		737	2-20-98			737	P.L. 105-174
DEPARTMENT CF TRANSPORTATION								
Office of the Secretary								
Payments to air carriers	R98-22		2,499	2-20-98			2,499	P.L. 105-174
Payments to air carriers (Airport and airway trust fund)	R98-23		1,000	2-20-98			1,000	P.L. 105-174
Maritime Administration								
Maritime guaranteed loan (Title XI) program account	R98-24		2,138	2-20-98	1/, 2/			
TOTAL, RESCISSIONS		5,200	20,060		4,921		17,276	

1/ Funds were never withheld from obligation.

2/ GAO's report to the Congress, dated May 11, 1998, indicated that agency officials stated that funds were being withheld from obligation, but not on an apportionment schedule. Subsequent discussions between OMB and agency officials confirm that there has been no withholding of funds. Rather, the lower demand in recent years for these loan guarantees has resulted in large available balances. For this reason, no withholding was required, either by OMB or by the agency.

ATTACHMENT D
Status of FY 1998 Deferrals - As of August 1, 1998
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-98
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D98-1	2,330,098		2-3-98	1,423,435			328	906,991
International military education and training	D98-2	43,300		2-3-98	41,900				1,400
Foreign military financing program	D98-3	1,483,903		2-3-98	865,768				618,135
Foreign military financing loan program	D98-4	60,000		2-3-98	0				60,000
Foreign military financing direct loan financing account	D98-5	657,000		2-3-98	0				657,000
Agency for International Development									
International disaster assistance, Executive	D98-6	135,697		2-3-98	20,250				115,447
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D98-7	115,640		2-3-98	32,782				82,858
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D98-8	7,369		2-3-98					7,369
TOTAL, DEFERRALS		**4,833,007**	**0**		**2,384,135**			**328**	**2,449,199**

[FR Doc. 98–22720 Filed 8–24–98; 8:45 am]
BILLING CODE 3110–01–C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40334; File No. SR–CBOE–98–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Incorporated to Amend Policy Regarding Exercise Procedures and Requirements for American-Style Cash-Settled Index Options

August 18, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 27, 1998, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. 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

CBOE proposes to set forth in an Exchange Regulatory Circular ("Exercise Procedures Circular") its policies regarding exercise procedures and requirements for American-style cash-settled index options. The text of the Exercise Procedures Circular is available at the Office of the Secretary, CBOE 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, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exercise Procedures Circular, which supersedes a prior circular on the same subject, is intended to update and clarify the explanation of the operation of Exchange rules governing the procedures applicable to the exercise of American-style cash-settled index options. The Exchange is filing the Exercise Procedures Circular as a rule change in order to give it the status of a rule for enforcement purposes.

Exchange Rule 11.1 sets forth the requirements for the exercise of outstanding option contracts. Exchange Rule 11.1.03 sets forth certain procedures that Exchange members must follow when exercising American-style cash-settled index option contracts. The Exercise Procedures Circular reminds members of these procedures and also provides members with a more complete description of the steps they must follow when exercising such option contracts.

For example, the Exercise Procedures Circular reminds members that the submission of an "exercise advice" to the Exchange does not initiate an exercise at the Options Clearing Corporation and that members must also submit an exercise instruction memorandum to their clearing firm. Also, the Exercise Procedures Circular reminds members that submission of an "exercise advice" or "exercise advice cancellation" after the 3:20 p.m. (CT) cut-off time set forth in Exchange Rule 11.1.03 will constitute a violation of Exchange Rule 11.1. Further, members are reminded of the exercise procedures that the Exchange follows when there is a delayed opening, a trading halt, a modification in trading hours, or a closing rotation. These, among other provisions contained in the Exercise Procedures Circular, are intended to spell out more clearly what the requirements of Exchange Rule 11.1.03 are and how the provisions of Exchange Rule 11.1.03 are implemented by the Exchange.

2. Statutory Basis

The Exchange believes the procedures set forth in the Exercise Procedures Circular are consistent with and further the objectives of Section 6(b)(5) of the Act[3] in that they are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information regarding the exercise of outstanding option contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act,[4] and Rule 19b–4(e)(1)[5] thereunder, in that it is designated by the Exchange as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[6]

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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b)(5).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(e)(1).

[6] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the principal office of CBOE. All submissions should refer to the File No. SR–CBOE–98–34 and should be submitted by September 15, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

Italicing indicates additions to, and [brackets] indicate deletions from, CBOE Rules currently in effect and as proposed to be amended.

* * * * *

CHAPTER XXIV

Index Options

* * * * *

Definitions

RULE 24.1

(a)—(t) No change.

* * *Interpretations and Policies:

.01 The reporting authorities designated by the Exchange in respect of each index underlying an index option contract traded on the Exchange are as follows:

Index	Reporting Authority
[Add the following to the current list]	
CBOE Telebras Index	CBOE.

* * * * *

Terms of Index Option Contracts

RULE 24.9

(a) *General.*

(1) No change.

(2) No change.

(3) *"European-Style Exercise."* The following European-style index options, some of which are A.M.-settled as provided in paragraph (a)(4), are approved for trading on the Exchange:

[Add the following to the current list.]

CBOE Telebras Index.

(4) No change.

(5) No change.

(b) Long-Term Index Options Series ("LEAPS®")

(1) No change.

(2) Reduced-Value LEAPS.

(A) Reduced-value LEAPS on the following stock indices are approved for trading on the Exchange:

[Add the following to the current list.]

CBOE Telebras Index.

(B) No change.

(c) No change.

* * * Interpretations and Policies:

.01 The procedures for adding and deleting strike prices for index options are provided in Rule 5.5 and Interpretations and Policies related thereto, as otherwise generally provided by Rule 24.9, and include the following:

(a) The interval between strike prices will be no less than $5.00; provided, that in the case of the following classes of index options, the interval between strike prices will be no less than $2.50:

[add the following to the list]

CBOE Telebras Index for strike prices below $50

[FR Doc. 98–22704 Filed 8–24–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40328; File No. SR–PCX–98–17]

Self-Regulatory Organization's; Pacific Exchange, Inc.; Order Approving Proposed Rule Change Relating to Expansion of the LMM Book Pilot Program

August 17, 1998.

I. Introduction

On April 16, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to remove the current cap on the number of LMMs who may participate in the program.[3]

Notice of the proposed change was published in the **Federal Register**.[4] The Commission received no comment letters in response to the notice of the proposed rule change.

II. Description of the Proposal

PCX has proposed to remove the current cap on the number of LMMs who may participate in the program.

On October 11, 1996, the Commission approved an Exchange proposal to adopt a one-year pilot program under which a limited number of LMMs would be able to assume operational responsibility for the options public limit order book ("Book") in certain option issues.[5] On September 22, 1997, the Commission approved an Exchange proposal to extend the program for one year, so that it is currently set to expire on October 12, 1998.[6]

Under the pilot program, approved LMMs manage the Book function, take responsibility for trading disputes and errors, set rates for Book execution, and pay the Exchange a fee for systems and services.[7] Currently, both multiply-listed and non-multiply-listed option issues are eligible to be traded under the pilot program.[8] Initially, the program was limited by allowing no more than three LMMs to participate in the program and no more than 40 option symbols to be used. But on April 1, 1997, the Commission approved an Exchange proposal to expand the program so that up to nine LMMs may participate and up to 150 option symbols may be used.[9]

The Exchange is now proposing to expand the LMM Book Pilot Program to eliminate the cap on the number of LMMs that may participate in the program. The Exchange notes that the program has been in operation for approximately eighteen months and that no significant problems have occurred. The program has been viable and effective, and has resulted in significant cost savings to customers in Book execution charges. The Exchange believes that it has adequate systems and operation capacity to expand the scope of the program beyond its current limits.

The Exchange believes that the proposed change will make the Exchange LMM Program more competitive because it will provide LMMs with the same flexibility currently held by options specialists at other exchanges, and DPMs at the Chicago Board Options Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1991).

[3] The Exchange had initially submitted the filing prior to April 16, 1998, but that submission did not include a signature page. By letter dated April 14, 1998, the Exchange filed Amendment No. 1 to the filing, which contained signatures for the filing. See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Marie D'Aguanno Ito, Special Counsel, Division of Market Regulation, Commission, dated April 14, 1998. On May 1, 1998, PCX submitted Amendment No. 2 to the filing, seeking to withdraw the portion of the filing that proposed removing the limit on the number of option issues that may be included in the LMM program. The PCX represented in the Amendment that such proposal would be submitted in a separate filing. See Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, to Marie D'Aguanno Ito, Special Counsel, Division of Market Regulation, Commission, dated April 30, 1998.

[4] Exchange Act Release No. 39995 (May 15, 1998) 63 FR 28432 (May 22, 1998).

[5] See Exchange Act Release No. 37810 (October 11, 1996) 61 FR 54481 (October 18, 1996) (approving File No. SR–PSE–96–09).

[6] See Exchange Act Release No. 39106 (September 22, 1997) 62 FR 51172 (September 30, 1997).

[7] See Exchange Act Release No. 37874 (October 28, 1996) 61 FR 56597 (November 1, 1996) (approving SR–PSE–96–38, establishing a staffing charge for LMMs who participate in the pilot program); see also File No. SR–PCX–98–03 (proposal to modify the LMM Book Pilot staffing charge).

[8] See Exchange Act Release No. 38273 (February 12, 1997) 62 FR 7489 (February 19, 1997) (approving File No. SR–PSE–96–45); see also Exchange Act Release No. 39667 (February 13, 1998) 63 FR 9895 (February 26, 1998) (order approving proposal to allow non-multiply-listed option issues to be traded under the program).

[9] See Exchange Act Release No. 38462 (April 1, 1997) 62 FR 16886 (April 8, 1997).

III. Discussion

The Commission believes the proposed rule change is consistent with the provisions of Section 6(b)(5)[10] of the Act, which provides, among other things, that the rules of an exchange are designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission notes that the LMM Book Pilot Program has been in operation for almost two years, without significant problems. According to the Exchange, the Program has been effective, has resulted in cost savings to customers in Book execution charges, and has provided the Exchange greater competitive ability. In seeking to remove the cap on the number of LMM participants in the program, the Exchange has represented that it has both the systems and operational capacity, and the ability, to handle such an expansion. Moreover, the Exchange believes that such expansion is necessary to handle increased order flow and to provide the flexibility that the Exchange needs in its efforts to facilitate transactions. Further, the Exchange believes that such an expansion would provide it with an enhanced competitive ability, particularly in comparison with other exchanges that trade options. The Commission agrees that the elimination of the current cap on LMM participants in the program should provide PCX with the flexibility and competitive ability that the Exchange is seeking, while enhancing its ability to facilitate transactions and to lower customer costs. The Commission notes that the program has operated without serious concerns or disruptions to date, and that the Exchange has represented that it will continue its efforts to oversee and surveil the operations of the program and the LMM participants. For these reasons, the Commission believes that the proposed elimination of the cap on the current number of LMM participants in the Book Pilot Program would be consistent with Section 6(b)(5) of the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–PCX–98–17) is approved.

For the Commisson, by the Division of Market Regulation, pursuant to delegated authority.[12]

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–22703 Filed 8–24–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2882]

Bureau of Political Military Affairs, Office of Defense Trade Controls; Registration of Manufacturers and Exporters; Information Collection Approval

AGENCY: Department of State.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to § 122.5 of the International Traffic in Arms Regulations (ITAR).

FOR FURTHER INFORMATION CONTACT: Charles S. Cunningham, Directives Management Branch, U.S. Department of State, Washington, DC 20520, (202) 647–0596.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that the Office of Management and Budget (OMB) has responded to the Department's request for approval of the information collection under section 122.5 of the (ITAR). This information collection requires all persons subject to registration under the ITAR to maintain records on defense trade-related transactions and make them available for U.S. Government inspection and copying.

OMB has approved this request on an emergency basis for 6 months. The control number issued by OMB for this information collection is 1405–0111, which expires on February 28, 1999.

Tom Heinemann,

Attorney Adviser, Department of State.

[FR Doc. 98–22843 Filed 8–24–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Shuttle America Corporation for Issuance of New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 98–8–23) Docket OST–98–3876.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Shuttle America Corporation Inc., fit, willing, and able, and (2) awarding it a certificate to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than Sept. 3, 1998.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–98–3876 and addressed to Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: August 20, 1998.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–22761 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In July 1998, there were 12 applications approved. This notice also includes information on one application, approved in June 1998, inadvertently left off the June 1998 notice. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals 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). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public agency: Broome County, Binghamton, New York.

Application number: 98–03–C–00–BGM.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $1,815,455.

Earliest charge effective date: September 1, 1998.

Estimated charge expiration date: January 1, 2002.

Class of air carriers not required to collect PFC's: Air taxi operators (as defined by Part 298.2, excluding commuter air carriers as defined by Part 298.2).

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Binghamton Regional Airport.

Brief description of projects approved for collection and use:

Runway 10/28 rehabilitation.

Equipment replacement

Brief description of project approved for collection only: Taxiway rehabilitation.

Brief Description of projects withdrawn:

Passenger terminal refurbishment (design phase).

Passenger terminal refurbishment (construction phase).

Determination: These projects were withdrawn by the public agency by letter dated June 24, 1998. Therefore, the FAA will not rule on these projects in this decision.

Decision date: June 26, 1998.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (516) 227–3800.

Public Agency: City of San Angelo, Texas.

Application number: 98–03–C–00–SJT.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $946,651.

Earliest charge effective date: December 1, 1998.

Estimated charge expiration date: July 1, 2006.

Class of air carriers not required to collect PFC's:

Part 135 charter operators who operate aircraft with a seating capacity of less than 10 passengers.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at San Angelo Municipal Airport.

Brief description of projects approved for collection and use:

Reconstruct portion of taxiway A.

PFC application.

Electrical vault and equipment.

Radio control lighting circuits for runway 3/21.

Lighting circuit monitoring system.

Replace air traffic control tower airfield lighting control panel.

Control wiring.

Emergency generator.

Upgrade homerun circuits.

Renovate/expand terminal building.

Brief description of projects approved for collection only:

Ramp/runway sweeper.

Install precision approach path indicator on runway 3.

Relocate aircraft rescue and firefighting (ARFF) facility.

Brief description of project partially approved for collection only: Install precision approach path indicator (PAPI) on runway 3.

Determination: Partially approved. The public agency withdrew a portion of this project, installation of runway end identifier lights, by letter dated July 1, 1998. Therefore, the FAA's decision only involved the PAPI on runway 3, which was approved.

Decision date: July 6, 1998.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Fort Wayne-Allen County Airport Authority, Fort Wayne, Indiana.

Application Number: 98–02–C–00–FWA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC revenue approved in this decision: $500,000.

Earliest charge effective date: March 1, 2015.

Estimated charge expiration date: January 1, 2016.

Class of air carriers not required to collect PFC'S: Air taxi/commercial operators that (1) by Federal Regulation are not required to report passenger statistics to the Federal government and (2) enplane 10 or fewer passengers per flight.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Fort Wayne International Airport.

Brief description of project approved for collection and use: Master plan update.

Decision date: July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Richard A. Pur, Chicago Airports District Office, (847) 294–7527.

Public Agency: County of Outagamie, Appleton, Wisconsin.

Application Number: 98–03–C–00–ATW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC revenue approved in this decision: $3,909,000.

Earliest charge effective date: January 1, 1999.

Estimated charge expiration date: April 1, 2003.

Class of air carriers not required to collect PFC'S: None.

Brief description of projects approved for collection and use: Electrical vault expansion.

Install emergency generator.

Acquire ARFF vehicle.

Airport access road construction.

Construct runway blast pads.

Taxiway A reconstruction.

Acquire snow removal equipment (SRE) [rotary blower and interchangeable runway broom].

Acquire SRE [truck with plow, bump box, and spreader].

Acquire SRE [truck with front mounted plow].

Acquire SRE [front-end loader].

Construct taxiway J connector.

Decision date: July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

Public agency: County of Natrona, Casper, Wyoming.

Application number: 98–03–C–00–CPR.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $614,857.

Earliest charge effective date: October 1, 1998.

Estimated charge expiration date: April 1, 2002.

Class of air carriers not required to collect PFC's: None.

Brief description of projects approved for collection and use:

Americans with Disabilities Act (ADA) terminal modifications.

Rehabilitate runway 8/26.

Rehabilitate crash fire rescue building ventilation.

Brief description of project disapproved: Water tank rehabilitation for ARFF use.

Determination: Disapproved. The FAA has determined that this project exceeds the requirements of FAA

Advisory Circular 150/5220–4B, "Water Supply Systems for Aircraft Fire and Rescue Protection." Therefore, the project is not eligible under Airport Improvement Program (AIP) criteria, paragraph 562 of FAA Order 5100.38A, AIP Handbook (October 24, 1989). Thus, the project does not meet the requirements of § 158.15(b)(1) and has been disapproved.

Decision date: July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public agency: Monterey Peninsula Airport District, Monterey, California.

Application number: 98–04–C–00–MRY.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $459,905.

Earliest charge effective date: December 1, 2001.

Estimated charge expiration date: July 1, 2002.

Class of air carriers not required to collect PFC's: Unscheduled/intermittent Part 135 air taxis.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Monterey peninsula Airport.

Brief description of projects approved for collection and use:

Slurry seal aircraft pavement at southeast T-hangars and slurry seal Fred Kane Drive.

Extend fire protection water main on north side of airport.

Airfield lighting improvements.

Extend old north side storm drain to detention pond.

Install Halotron in ARFF vehicle.

Concrete repair/sealant at south side ramp.

Holding apron for taxiway A at west end.

Realign portion of Sky Park Drive.

Reconstruct/realign southeast entrance.

Slurry seal taxiway B.

Slurry seal general utility runway 10L/28R and taxiways.

Extend 12-inch water main to old north side.

Terminal automatic door replacement.

Terminal roof replacement, phase I.

Noise exposure map update.

Brief description of projects disapproved: Relocation of power pole line at Sky Park Drive.

Determination: Disapproved. The FAA has determined that the power pole line does not constitute an airport hazard, nor does it impede eligible airport development. Therefore, in accordance with paragraph 594 of FAA Order 5100.38A, AIP Handbook (October 24, 1989), the project does not meet the requirements of § 158.15(b)(1) and is disapproved.

Airfield generator fuel system.

Determination: Disapproved. The FAA has determined that the removal and replacement of an underground fuel storage tank with an above ground tank is not included in 49 U.S.C. 47102(3)(F). 49 U.S.C. 47102(3)(F) defines airport development to be the constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if necessary for compliance with the responsibilities of the operator or if necessary for compliance with the responsibilities of the operator or owner of an airport under the ADA, the Clean Air Act, and the Federal Water Pollution Control Act. The replacement of underground storage tanks falls within the resources Conservation and Recovery Act, which is not among the Acts included in the definition of airport development. The removal and replacement of the underground storage tank with an above ground tank thus does not meet the requirements of § 158.15(b)(1) and is disapproved.

Brief description of project withdrawn: Blast pad at holding area 10R.

Determination: The public agency withdrew this project from the application by letter dated June 19, 1998. Therefore, the FAA will not rule on this project in this Record.

Decision date: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Gulfport-Biloxi Regional Airport Authority, Gulfport, Mississippi.

Application number: 98–04–C–00–GPT.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $1,329,000.

Earliest charge effective date: February 1, 2002.

Estimated charge expiration date: January 1, 2003.

Class of air carriers not required to collect PFC's: None.

Brief description of project approved for collection and use: Construct terminal phase II, Concourse "B", and install jetway.

Decision date: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Rans D. Black, Jackson Airports District Office, (601) 965–4628.

Public Agency: City of Manhattan, Kansas.

Application number: 98–01–C–00–MHK.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $401,978.

Earliest charge effective date: October 1, 1998.

Estimated charge expiration date: January 1, 2004.

Class of air carriers not required to collect PFC's: None.

Brief description of projects approved for collection and use:

Access road (phase 1).

Install Part 139 airfield signage.

Passenger terminal building (design).

Passenger terminal building (construction).

Construct service road.

Passenger walkways.

Airport master plan update.

Rehabilitation of the east apron.

Access road.

Parking facilities.

Security fencing.

Utility service.

Brief description of project approved in part for collection and use: Landscaping.

Determination: Partially approved. Decorative landscaping is not an allowable cost under paragraph 591a of FAA Order 5100.38A, AIP Handbook (October 24, 1989). Therefore, only that portion of the project intended to prevent soil erosion following construction of the new terminal is approved.

Decision date: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public agency: County of Emmet, Pellston, Michigan.

Application number: 98–07–I–00–PLN.

Application type: Impose a PFC

PFC level: $3.00.

Total PFC revenue approved in this decision: $115,360.

Earliest charge effective date: August 1, 1998.

Estimated charge expiration date: January 1, 2003.

Class of air carriers not required to collect PFC's: Part 135 operators filing FAA Form 1800–31.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less

than 1 percent of the total annual enplanements at Pellston Regional Airport.

Brief description of projects approved for collection only:

Rehabilitate aircraft parking ramp.
Emergency standby generator.
Acquire handicap loading device.
Acquire snow blower.
Construct runway 32 access road.
Rehabilitate airport entrance road.
Land acquisition.
Acquire sweeper.
Acquire snow plow.

Decision date: July 22, 1998.

FOR FURTHER INFORMATION CONTACT: Jon Gilbert, Detroit Airports District Office, (734) 487–7281.

Public agency: San Diego Unified Port District, San Diego, California.

Application number: 98–02–C–00–SAN.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $28,089,000.

Earliest charge effective date: September 1, 2000.

Estimated charge expiration date: January 1, 2002.

Class of air carriers not required to collect PFC'S: All Part 135 air taxi operators filing FAA Form 1800–31.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at San Diego International Airport—Lindberg Field.

Brief description of projects approved for collection and use:

Passenger loading bridges.
Upgrade east and west terminals.
Airport long-term study.
Upgrade electronic information display system.
Storm water oil/water separator system.
Temporary commuter terminal.
Replace ARFF vehicle.
Air cargo ramp lighting.
Upgrade aircraft emergency alarm system.
Modify pedestrian access, west terminal.
East terminal pedestrian bridge.
High speed exit, taxiway B7.
Consolidate air cargo.
Pave fillets, taxiway D.
Blast deflectors, taxiways B2, B3, and D.
Emergency operations center.
Residential sound attenuation.
Upgrade gates 20 and 22.

Brief description of project approved for use only: Demolish lease building.

Decision date: July 24, 1998.

FOR FURTHER INFORMATION CONTACT: John P. Milligan, Western Pacific Region Airports Division, (310) 725–3621.

Public agency: City of Greenville, Mississippi.

Application number: 98–01–C–00–GLH.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $57,897.

Earliest charge effective date: October 1, 1998.

Estimated charge expiration date: July 1, 2000.

Class of air carriers not required to collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Mid-Delta Regional Airport.

Brief description of projects approved for collection and use:

Rehabilitate storm sewer.
Rehabilitate taxiway pavements.

Decision date: July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Jackson Airports District Office, (601) 965–4628.

Public agency: County of Dickinson, Iron Mountain, Michigan.

Application number: 98–03–U–00–IMT.

Application type: Use PFC revenue.

PFC level: $3.00.

Total PFC revenue to be used in this decision: $62,623.

Charge effective date: September 1, 1995.

Estimated charge expiration date: January 1, 2001.

Class of air carriers not required to collect PFC's: No change from previous decision.

Brief description of projects approved for use:

Rehabilitate lighting, runway 1/19.
Construct and light taxiway H, general aviation apron; and general aviation access road.
Install sanitary sewer.

Decision date: July 30, 1998.

FOR FURTHER INFORMATION CONTACT: Jon Gilbert, Detroit Airports District Office, (734) 487–7281

Public agency: Port of Port Angeles, Port Angeles, Washington.

Application number: 98–04–C–00–CLM.

Application type: Impose and use a PFC.

PFC level: $3.00.

Total PFC revenue approved in this decision: $118,572.

Earliest charge effective date: August 1, 1998.

Estimated charge expiration date: November 1, 2001.

Class of air carriers not required to collect PFC's: Part 135 air taxi/commercial operators who conduct operations in air commerce carrying persons for compensation or hire, including air taxi/commercial operators offering on-demand, non-scheduled public or private charters.

Determinations: Approved. Based on information contained on the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at William R. Fairchild International Airport.

Brief Description of projects approved for collection and use:

Rehabilitate taxiways and aprons—slurry seal.
Access road rehabilitation.
Purchase snow blower, broom, and vehicle.
Purchase snow plow.
Property purchase for safety area and runway protection zone.
Airport lighting improvements.
Purchase decelerometer.

Brief description of project approved for collection only: Runway safety area improvements.

Decision date: July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (425) 227–2660.

Amendments to PFC Approvals

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–01–C–03–MIA, Miami, FL	06/22/98	$125,691,000	$84,030,000	07/01/05	07/01/04
94–01–C–02–DRO, Durango, CO	07/02/98	486,015	537,085	06/01/00	08/01/00

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
94–01–C–03–PIH, Pocatello, ID	07/02/98	460,000	814,719	03/01/02	12/01/01
93–01–C–02–IAD, Washington Dulles, VA	07/07/98	217,657,398	222,657,398	05/01/05	12/01/08
95–02–C–01–COS, Colorado Springs, CO	07/14/98	7,445,625	11,864,672	12/01/02	08/01/03
93–01–C–10–ORD, Chicago O'Hare, IL	07/23/98	508,832,745	1,122,653,958	04/01/05	11/01/11
95–03–C–02–ORD, Chicago O'Hare, IL	07/23/98	21,343,524	21,343,524	04/01/05	11/01/11
96–05–C–03–ORD, Chicago O'Hare, IL	07/23/98	485,504,529	518,696,198	04/01/05	11/01/11

Issued in Washington, DC. on August 14, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–22750 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–98–4344]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection:

49 U.S.C. Section 5309 Capital Program and Section 5307 Urbanized Area Formula Program.

DATES: Comments must be submitted before October 26, 1998.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW, Washington, DC 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Masselink, Office of Program Management, (202) 366–1630.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) the necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5309 Capital Program and Section 5307 Urbanized Area Formula Program *(OMB Number: 2132–0543)*

Background: 49 U.S.C. Section 5309 Capital Program and Section 5307 Urbanized Area Formula Program authorize the Secretary of Transportation to make grants to State and local governments and public transportation authorities for financing mass transportation projects. Grant recipients are required to make information available to the public and to publish a program of projects for affected citizens to comment on the proposed program and performance of the grant recipients at public hearings. Notices of hearings must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. FTA also uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable federal laws and OMB Circular A–102.

Respondents: State and local government and non-profit institutions.

Estimated Annual Burden on Respondents: 863 hours for each of the 600 respondents.

Estimated Total Annual Burden: 517,800 hours.

Frequency: Annual.

Issued: August 20, 1998.

Gordon J. Linton,

Administrator.

[FR Doc. 98–22760 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4336]

Notice of Receipt of Petition for Decision That Nonconforming 1993–1998 Porsche 928 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993–1998 Porsche 928 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993–1998 Porsche 928 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 24, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle

Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Champagne Imports of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1993–1998 Porsche 928 passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1993–1998 Porsche 928 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993–1998 Porsche 928 passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1993–1998 Porsche 928 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993–1998 Porsche 928 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1993–1998 Porsche 928 passenger cars comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components if the vehicles are not already so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner states that anti-theft devices and components on non-U.S. certified 1993–1998 Porsche 928 passenger cars will be inspected and replaced, where necessary, to comply with the Theft Prevention Standard found in 49 CFR Part 541.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 19, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–22687 Filed 8–24–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Preemption Determination No. PD–13(R); Docket No. RSPA–97–2581 (PDA–16(R))]

Nassau County, New York, Ordinance on Transportation of Liquefied Petroleum Gases

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of administrative determination of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

APPLICANT: New York Propane Gas Association (NYPGA).

LOCAL LAWS AFFECTED: Nassau County, New York, Ordinance No. 344–1979, Sections 6.7(A) & (B) and Section 6.8.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations, 49 CFR Parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: Federal hazardous material transportation law preempts the requirement in Section 6.8 of Nassau County, New York Ordinance No. 344–1979 for a certificate of fitness, insofar as that requirement is applied to a motor vehicle driver who sells or delivers liquefied petroleum gas (LPG), because Section 6.8 imposes on drivers of motor vehicles used to deliver LPG more stringent training requirements than provided in the HMR. This requirement is not preempted with respect to persons who sell or transfer LPG but do not drive the motor vehicle from which (or to which) the LPG is transferred.

There is insufficient information to find that Federal hazardous materials law preempts the requirement in Sections 6.7(A) and (B) of Ordinance No. 344–1979 for a permit to pick up or deliver LPG within Nassau County. The application and comments submitted in this proceeding fail to show that this requirement, as applied and enforced, creates an obstacle to accomplishing and carrying out Federal hazardous material transportation law or the HMR. The record does not support findings that the requirement for a permit causes an unnecessary delay in the transportation of hazardous materials; that the permit fee is unfair or used for purposes other than relating to transporting hazardous materials; or that the permit sticker is a labeling or marking of hazardous material (within the meaning and intent of the HMR's hazard communication requirements).

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

A. Application and Public Notice

NYPGA has applied to RSPA for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts Sections 6.7(A) and (B) and Section 6.8 of Nassau County, New York, Ordinance No. 344–1979, concerning Fire Department permits and "certificates of fitness" for the delivery of LPG (including propane) within Nassau County. NYPGA challenges requirements of the Fire Department for issuance of these permits and certificates of fitness, including fees, vehicle inspections, and written and practical examinations.

Permits. Sections 6.7(A) and (B) of Ordinance No. 344–1979 provide as follows:

> A. No person, firm or corporation shall use or cause to be used, any motor vehicle, tank truck, tank semi-trailer, or tank truck trailer for the transportation of Liquefied Petroleum Gas, unless after complying with these regulations a permit to operate any such vehicle has been obtained from the Nassau County Fire Marshal. No permit shall be required under this section for any motor vehicle that is used for the transportation of Liquefied Petroleum Gas, not operated or registered by an authorized dealer, in containers not larger than ten (10) gallons water capacity each (approximately thirty-four (34) pounds propane capacity) with aggregate, water capacity of twenty-five gallons (approximately eighty-seven (87) pounds propane capacity) or when used in permanently installed containers on the vehicle as motor fuel. This section shall not apply to any motor vehicle, tank truck, tank semi-trailer or tank truck trailer traveling through Nassau County and making no deliveries within the County.
>
> B. The permit shall be given full force and effect for a period of one (1) year.

In order to obtain a permit, the owner of a vehicle used to deliver LPG must pay a fee of $150, or $75 for renewal, and have the vehicle inspected. Inspections are normally conducted by appointment only on two days each month, although Nassau County states that this schedule is "flexible and does not apply to new vehicles." When a permit is issued, a permit "sticker" must be placed on the vehicle.

Certificate of Fitness. Section 6.8(A) of Ordinance No. 344–1979 requires a "Certificate of Fitness issued by the Fire Marshal," effective for a year and renewable, to be held by "[a]ny person filling containers at locations where Liquefied Petroleum Gas is sold and/or transferred from one vessel to another * * *" Section 6.8(I) of the ordinance further specifies that a certificate of fitness is required for any person who "Fill[s] containers permanently located and installed outdoors equipped with appurtenances for filling by a cargo vehicle at consumer sites," or "Sell[s] Liquefied Petroleum Gas or transfer[s] Liquefied Petroleum Gas from one vessel into another." NYPGA states that this means that each driver of a vehicle used to deliver propane in Nassau County must hold a certificate of fitness.

Other subsections of Sec. 6.8 provide that an applicant for a certificate of fitness must complete "forms provided by the Fire Marshal * * * accompanied by the applicable fee" (Sec. 6.8(B)); must demonstrate proof of qualifications and physical competence (Sec. 6.8(C)); and must undergo an investigation that "include[s] a written examination regarding the use, makeup and handling of Liquefied Petroleum Gas and * * * a practical test" (Sec. 6.8(D)). The affidavit of Nassau County's Supervising Fire Inspector indicates that the certificate of fitness is issued in the form of "an ID card which must be produced upon the request of anyone (in Nassau County) for whom [the holder] seeks to render his services or the Fire Marshal." It appears from the affidavit and NYPGA's application that an applicant for a certificate of fitness must:

—Submit a notarized application form (Exhibit 7 to NYPGA's application) accompanied by a $150 fee;
—Take a written examination, given by appointment at the Fire Marshal's Office, and have a photograph taken for the identification card; and
—Undergo a practical examination given at the applicant's place of employment.

The written and practical examinations are not required for renewing the certificate of fitness, and the renewal fee is $25.

The text of NYPGA's application was published in the **Federal Register** on June 10, 1997, and interested parties were invited to submit comments. 62 FR 31661. Comments were submitted by the National Propane Gas Association (NPGA), National Tank Truck Carriers, Inc. (NTTC), New York State Motor Truck Association (NYSMTA), Star-Lite Propane Gas Corp. (Star-Lite), the Association of Waste Hazardous Materials Transporters (AWHMT), and Nassau County. NYPGA submitted rebuttal comments.

On February 26, 1998, Congressman Gerald B. Solomon (R–NY) wrote

RSPA's Acting Administrator in support of NYPGA's application and asked RSPA to expedite its determination. On June 24, 1998, Senator Alfonse M. D'Amato (R–NY) forwarded to DOT a letter from the President of Star-Lite expressing concern with the time for issuance of this determination. On July 30, 1998, Star-Lite's President also wrote attorneys in RSPA's Office of the Chief Counsel asking RSPA to "make [its] ruling as soon as possible." All of these additional letters were placed in the public docket.

B. Transportation of propane

Propane (a form of LPG) is a flammable gas which, according to NPGA, is used by more than 18 million installations throughout the United States for home and commercial heating and cooking, in agriculture, in industrial processing, and as a clean-air alternative engine fuel for both over-the-road vehicles and industrial lift trucks. Larger cargo tank motor vehicles (with a capacity of more than 3,500 gallons) are generally used to deliver propane to bulk storage plants or large industrial users. Smaller cargo tank motor vehicles are typically used for local deliveries.

RSPA believes that a large number of propane gas dealers are small businesses that serve nearby customers (no more than 50 miles from the dealer's business location). Carriers of LPG that operate cargo tanks solely within one state are not directly subject to the HMR until October 1, 1998. 49 CFR 171.1(a)(1), as adopted September 22, 1997 (62 FR 49560, 49566). However, both intrastate and interstate motor carriers that deliver propane within Nassau County are subject to the substantive requirements in the HMR because New York has adopted the HMR as State law with respect to the "classification, description, packaging, marking, labeling, preparing, handling and transporting all hazardous materials." 17 New York Codes, Rules and Regulations 507.4(a)(1)(i).

C. Preemption under Federal hazardous material transportation law

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to NYPGA's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if

(1) complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or

(2) the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the "dual compliance" and "obstacle" criteria which RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 § 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement about any of the following subjects, that is not "substantively the same as" a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be "substantively the same," the non-Federal requirement must "conform[] in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted." 49 CFR 107.202(d).

Subsection (g)(1) of 49 U.S.C. 5125 provides that a State, political subdivision, or Indian tribe may

impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

These preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101–615 § 2, 104 Stat. 3244. A Federal Court of Appeals has affirmed that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, the HMTA was revised, codified and enacted "without substantive change," at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.)

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing which have been delegated to FHWA. 49 CFR 1.53(b). Under RSPA's regulations, preemption determinations are issued by RSPA's Associate Administrator for Hazardous Materials Safety. 49 CFR 107.209(a). This administrative determination has replaced RSPA's process for issuing inconsistency rulings.

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, RSPA publishes its determination in the

Federal Register. *See* 49 C.F.R. 107.209(d). A short period of time is allowed for filing petitions for reconsideration. 49 C.F.R. 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon,* above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12612, entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

II. Discussion

A. Permits

NYPGA and other commenters argue that Nassau County's permit requirement constitutes an "obstacle" to transportation because there is a delay in the time necessary to undergo an inspection and pay the permit fee. NYPGA and others also contend that the fee for issuance of a permit (as well as a certificate of fitness) is "inherently unfair" as a "flat tax" which violates the Commerce Clause of the Constitution, because "a one-time entrant to [Nassau County] from any jurisdiction, would pay the same as a frequent entrant." NYPGA further states that the permit sticker is "a separate labeling requirement of a hazardous material and should be preempted, per se, as a covered subject." In rebuttal comments, it states that the sticker "is an additional label and causes delay."

NYPGA argues in its application that, because inspections are scheduled for only two days each month, a new vehicle that meets all Federal and State requirements is "unusable until a [Nassau County] inspection can be performed." NYPGA states that an "out-of-state carrier who attempted to deliver propane to a customer" in Nassau County could not obtain the required permit "without violating the 'unnecessary delay' standard." According to NYPGA, "[b]ecause both the driver and vehicle are unavailable for long periods of time, the effect of the inspection is to cause unnecessary delay * * *"

The focus of NYPGA's application and many of the comments, however, appears to be the delay experienced by a propane delivery company in being able to compete or do business within Nassau County—rather than any delay in the transportation of trucks loaded with propane. Star-Lite (a member of NYPGA) states that it placed a new vehicle in service "prior to the two monthly available inspection days" and that, "[f]rom the date of purchase this vehicle would have been unavailable for delivery to customers pending such local inspection for a period of at least 10 days." Star-Lite complains that the "inconvenience, costs and delays" amount to an "obstacle to transportation."

In a similar fashion, NYSMTA states that its members "transport propane in bulk and on rack trucks to the area of New York State in and around Nassau County, but are effectively prevented from entering this market due to the subject ordinance." According to NYSMTA, Nassau County's inspection requirements are "redundant to state-enforced Federal requirements of title 49," and "effectively bar any company not Registered and not regularly engaged in delivering to Nassau County from bidding on any transportation of propane to Nassau regardless of the origin of that product and despite meeting all federal and state requirements of Title 49." Congressman Solomon (who represents a district in upstate New York including Saratoga Springs and Lake Placid) states that one of his constituents "cannot deliver propane * * * to points in Nassau County."

NPGA complains that

> A company who *might* be shipping a hazardous material to or from Nassau County by motor vehicle (common or private) would have to anticipate its transportation needs by as much as a full year in advance in order for that *particular* vehicle to be inspected and "licensed" for operation in the county. Such inspections are an undue and unwarranted interference in *interstate* commerce, at the very least, and would actually have a very similar effect upon *intrastate* transportation of hazardous materials.

Unlike other commenters, NTTC recognizes a difference in the application of Nassau County's permit requirements to "motor carriers who operate entirely within its jurisdiction" as opposed to a

> a motor carrier, domiciled in New England, the Middle Atlantic States, etc. [that] may be compelled to make one or more deliveries to NC [Nassau County] on an emergency or non-scheduled basis. Absent extraordinary measures, it is likely that such a carrier will be in violation of the ordinance upon entry into that jurisdiction or the carrier will have to delay transportation services until the NC "process" has been completed.

Nassau County denies that there is any inherent delay in applying its permit requirements to trucks that deliver propane within the County, even by a truck dispatched from outside of the County. The County reiterates that its requirements do not apply to vehicles that travel through the County without making deliveries. It asserts that it does not require that the vehicle be loaded with propane during an inspection, so that there is no "unnecessary delay" in the transportation of hazardous materials.

The County also states that the "two day a month schedule is flexible and does not apply to new vehicles." According to an attached affidavit of its Supervising Fire Inspector: vehicles with less than 1,000 miles receive only a "modified" inspection, that "does not have to be during the regular inspection times and is at the owner's convenience"; additional inspection days are scheduled "when the number of vehicles warrant or the vehicle's owner presents exigent circumstances requiring an alternate date"; the Fire Department has "on occasion made inspections when requested at the owner's location"; and out-of-state carriers

> would normally be given a warning before enforcement actions are initiated. Special arrangements are also set up to accommodate these carriers by allowing inspections at other than normal hours.

In rebuttal comments, NYPGA takes issue with the County's asserted flexibility in arranging inspections, but it does not establish that there have been actual delays in the delivery of propane to or within Nassau County.

In PD–4(R), RSPA considered California's registration and inspection program applicable to cargo tanks and portable tanks transporting flammable and combustible liquids. California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48933 (Sept. 20, 1993), decision on petition for reconsideration, 60 FR 8800 (Feb. 15. 1995). Among other matters, California required (1) annual registration of these

tanks, (2) an inspection once a year within 30 days of notification, and (3) placement on the tank itself of a metal identification plate, a State "CT number," and a label certifying that the tank had passed inspection and is registered. The applicant and others provided evidence that, while the California Highway Patrol (CHP) was able to promptly inspect some tanks arriving at a port-of-entry location on a main highway near the State border, the transportation of other tanks entering California loaded with hazardous materials had been interrupted for hours or days before an inspector could arrive to perform the required inspection. 58 FR at 48940–41.

In its decision, RSPA noted that "it has encouraged States and local governments to adopt and enforce the requirements in the HMR, 'through both periodic and roadside spot inspections.'" 58 FR at 48940 (quoting from WPD–1, 57 FR 23278, 23295 (June 2, 1992)). However, RSPA found that State and local inspections must be carried out in a manner that does not conflict with the requirement currently set forth at 49 CFR 177.800(d) that

> All shipments of hazardous materials must be transported without unnecessary delay, from and including the time of commencement of the loading of the hazardous material until its final unloading at destination.

(Until October 1, 1996, this requirement was contained in § 177.853(a).)

In PD–4(R), RSPA discussed the purpose and its prior analyses of the HMR's prohibition against "unnecessary delay." It referred to three early inconsistency rulings including IR–2, 44 FR 75566, 75571 (Dec. 20, 1979), decision on appeal, 45 FR 71881 (Oct. 30, 1980), where it had stated:

> The manifest purpose of the HMTA and the Hazardous Materials Regulations is safety in the transportation of hazardous materials. Delay in such transportation is incongruous with safe transportation. Given that the materials are hazardous and that their transportation is not risk-free, it is an important safety aspect of the transportation that the time between loading and unloading be minimized.

Quoted in PD–4(R), 58 FR at 48939–40. RSPA noted that "non-Federal registration and inspection requirements, by themselves, do not inevitably have the potential for unnecessary delay proscribed in" the HMR. 58 FR at 48940. RSPA also pointed out that an unnecessary delay was not presented by "the minimal increase in travel time when an inspection is actually being conducted, or the vehicle is waiting its 'turn' for an inspector to finish inspecting another vehicle that arrived earlier at the same facility." 58 FR at 48941. However, there was an unnecessary delay when tanks loaded with hazardous materials "must be held for inspection for two to three days * * * or as long as five days" until an inspector could arrive. *Id.* Accordingly, RSPA held that Federal hazardous material transportation law preempted California's inspection requirement

> because, as applied and enforced, that requirement causes unnecessary delays and is an obstacle to the accomplishment and execution of the HMR. California is free, and is encouraged, to conduct inspections of cargo tanks and portable tanks at [ports of entry], other roadside inspection locations, and terminals. However, it may not require an inspection as a condition of traveling on California's roads when the inspection cannot be conducted without delay because an inspector must come to the place of inspection from another location.

Id.

In its decision on CHP's petition for reconsideration, RSPA emphasized that its holding was "a narrow one," and stated that, "[i]f and when California eliminates the unreasonable delays in its inspection program, that requirement will no longer be preempted." 60 FR at 8803. RSPA also noted that tanks that are "based" within the State and "never leave California would not experience delays associated with entering the State or being rerouted around California." *Id.*

In PD–4(R), RSPA also found that the annual registration requirement, including payment of a registration fee, was not preempted because there was no evidence that the registration process produced any delays, separate from the wait for an inspection to be conducted. 58 FR at 48940. RSPA further found that Federal law preempted California's requirements for a metal specification plate, the CT number, and the certification label on the tank itself, because they were not "substantively the same as" requirements in the HMR concerning the "marking . . . of hazardous material," and the "marking . . . of a package or container, which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material." *See* 58 FR at 48937. In its decision on CHP's petition for reconsideration, RSPA noted that a different standard might apply in determining whether Federal hazardous material transportation law preempts a registration document required to be carried in a vehicle (rather than marked directly on the hazardous materials container):

> A requirement to carry additional documentation on a vehicle transporting hazardous materials, beyond that required in the HMR, may create an obstacle to the accomplishment and execution of the Federal hazardous material transportation law and the HMR. *See Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1581 (10th Cir. 1991).

As stated in Section I.B., above, RSPA understands that most propane gas dealers serve customers within 50 miles of their principal places of business. Those companies located within Nassau County, and many others located nearby, should have adequate time to plan for and undergo inspections without disrupting actual deliveries within Nassau County. With respect to loaded trucks that may arrive from outside of Nassau County (in an emergency or otherwise), it is uncertain whether the County is able to conduct inspections, collect fees, and issue permits—or waive these requirements—without causing those trucks to wait unnecessarily. So long as the County does not cause the loaded truck to wait for a permit to be issued, there will be no unnecessary delay in the transportation of hazardous materials. The present record lacks information to show that Nassau County's permit requirement, as applied and enforced, actually results in "unnecessary delays" in deliveries of propane within the County.

With respect to the permit fee, the County's Supervising Fire Inspector states that the fee covers the cost of conducting the inspection and actually issuing the permit. He states that, because "it takes less time to reinspect a truck for a renewal permit," the fee is $75 for a renewal permit, rather than $150 for an initial permit. He also states that the fees collected "do not fully cover the cost of administering the tests or performing the inspection," because the County "collects less than $70,000 in LP Gas fees annually and spends over $70,000 in LP related administration," without considering the costs of either the County's hazardous materials emergency response team or the personnel and equipment "necessary to administer and enforce the Hazardous Material laws and regulations."

Because the permit fee is not applied to all trucks that transport propane within Nassau County, but only to those that deliver propane within the County, and the amount of the fee is related in some measure to the work involved in conducting the required inspection, this fee appears more like a user fee than a tax. According to the U.S. Court of Appeals for the Fourth Circuit, user fees are to be distinguished from taxes, so long as they "reflect a fair, if imperfect, approximation of the cost of using state

facilities for the taxpayer's benefit, * * * [and are] not * * * excessive in relation to the costs incurred by the taxing authorities." *Center for Auto Safety* v. *Athry*, 37 F.3d 139, 142 (1994), cert. denied, 514 U.S. 1036 (1995), citing *Evansville-Vanderburgh Airport Auth. District* v. *Delta Airlines*, 405 U.S. 707, 717–20 (1972). In this case, no party has shown that the permit fees fail this standard. There is no other information to show that the permit fee is "unfair" or that the fees collected are not used for purposes that do not relate to the transportation of hazardous material.

According to the County, the permit sticker must be placed on the fender or door of the vehicle, and not on the cargo tank itself; otherwise, there is no requirement to carry any paperwork on the vehicle. Because the sticker is not placed on the hazardous material itself (or its container), it is not a "marking * * * of hazardous material." 49 U.S.C. 5125(b)(1)(B). There is no evidence showing that placing this sticker on the vehicle results in any unnecessary delay, or that the requirement for affixing the permit sticker, as applied or enforced, is otherwise an obstacle to accomplishing and carrying out Federal hazardous material transportation law or the HMR.

For these reasons, RSPA cannot find that Federal hazardous materials transportation law preempts Sections 6.7(A) and (B) of Nassau County Ordinance No. 344–1979.

B. Certificate of fitness

NYPGA asserts that the certificate of fitness is a second driver's license required by Nassau County that is prohibited under FHWA's regulations concerning commercial driver's licenses (*see* 49 CFR 383.21(a)) and, accordingly, preempted under both the "dual compliance" and "obstacle" standards in 49 U.S.C. 5125(a). It also contends that Nassau County's requirement for a certificate of fitness conflicts with 49 CFR 172.701, which allows a State, rather than a political subdivision, to impose more stringent training requirements on drivers who are domiciled within the State.

NTTC appears to object to the requirement for a certificate of fitness only as applied to non-residents of Nassau County. It contends that "the process to obtain a 'certificate' produces unnecessary delay" because of the time necessary to obtain a medical certificate, prepare the notarized statement, obtain a color photograph, pass a written examination, and then wait for the County to process the application and issue the certificate. NTTC also states that the requirement for a certificate of fitness is redundant with the training requirements in the HMR and the Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR Parts 350–399, and that, if County officials believe that the Federal requirements are deficient, they should petition DOT for new Federal standards.

Nassau County states that its certificate of fitness is not a driver's license because the driver need not be certified; "[d]riving skills are *not* tested," and only the person who fills the customer's tank or otherwise transfers propane needs to hold a certificate; "[t]he recipient, usually the yard or retail/commercial center can have their employee certified and no driver need be involved if he neither transfers or fills where LP Gas is sold." The County also argues that its certificate of fitness program is not "training," and that 49 CFR 172.701 does not prohibit this requirement because the limitation in that section of the HMR "deals with minimum training requirement for *drivers*."

However, Nassau County does not dispute the statement of NYPGA that, in actual practice, the vehicle driver performs the transfer of propane into a customer's tank, so that the requirement for a certificate of fitness is applied to, and enforced against, persons who drive motor vehicles. NYPGA stated in rebuttal that the certificate of fitness is a second driver's license because, in practice, "the driver and the person doing the transfer" are the same individual, and the driver needs the certificate "to complete the delivery or 'sale'." NYPGA also noted that the persons required to hold a certificate of fitness are clearly covered by the HMR's training requirements, because a "hazmat employee" includes an individual who "loads, unloads, or handles hazardous material." 49 U.S.C. 5102(3)(C)(i).

By prescribing only "*minimum* training requirements for the transportation of hazardous materials," 49 CFR 172.701, that section in the HMR does not, in itself, preclude States or other governmental bodies from requiring additional training of hazmat employees generally. The one condition that § 172.701 places on non-Federal training requirements is that

> For motor vehicle drivers, however, a State may impose more stringent training requirements only if those requirements—
>
> (a) Do not conflict with the training requirements in [49 CFR Part 172] and in Part 177 * * *; and
>
> (b) Apply only to drivers domiciled in that State.

In proposing the training requirements in rulemaking docket No. HM–126F, RSPA explained that it intended

> to restrict its preemption of state law to the minimum level necessary to achieve the objectives of the Hazardous Materials Transportation Act (HMTA) and the HMR.
>
> However, RSPA views these proposed training requirements, insofar as they apply to drivers engaged in the highway transportation of hazardous materials, as minimum requirements which a state may exceed only if its greater requirements do not directly conflict with the HMR requirements and apply only to individuals domiciled within that state.

54 FR 31144, 31147 (July 26, 1989). In the preamble to the final rule, RSPA further explained that

> Although the preemption language does allow States to impose more stringent requirements on drivers of vehicles transporting hazardous materials by highway, it is not an unlimited authority. The language recognizes the traditional regulation by States of their own registered drivers, particularly through drivers' licensing requirements and procedures. However, the language does not authorize States to impose requirements on non-residents and also does not authorize other governmental agencies to impose requirements.

57 FR 20944, 20947 (May 5, 1992).

Section 6.8 of Ordinance 344–1979 specifies that, to obtain a certificate of fitness, the applicant must demonstrate proof of qualifications and physical competence, and pass written and practical tests regarding the "use, makeup and handling" of LPG. This falls within the definition of "training" in 49 CFR 172.700(b), as including the recognition and identification of hazardous materials, "knowledge of specific requirements * * * applicable to functions performed by the employee, * * * and knowledge of emergency response information, self-protection measures and accident prevention methods and procedures."

To the extent that the knowledge required for a certificate of fitness duplicates hazmat training required by the HMR, as NTTC contends, Nassau County may adopt as local law and enforce the training requirements in the HMR against all persons who deliver propane within the County. If Nassau County believes that more should be required than under the HMR, it may encourage State officials to apply additional training requirements to drivers who are residents of New York State, or it may petition RSPA to adopt more specific standards for drivers. However, Nassau County's requirement for a certificate of fitness in order to deliver propane within the County is an

obstacle to accomplishing and carrying out the HMR because that requirement applies more stringent training requirements to drivers of motor vehicles.

For this reason, 49 U.S.C. 5125(a)(2) preempts Nassau County's requirement for a certificate of fitness insofar as that requirement is applied to a motor vehicle driver who sells or delivers LPG. However, this requirement is not preempted with respect to persons who sell or transfer LPG but do not drive the motor vehicle from which (or to which) the LPG is transferred.

III. Ruling

Federal hazardous material transportation law preempts the requirement in Section 6.8 of Nassau County, New York Ordinance No. 344–1979 for a certificate of fitness, insofar as that requirement is applied to a motor vehicle driver who sells or delivers LPG, because Section 6.8 imposes on drivers of motor vehicles used to deliver LPG more stringent training requirements than provided in the HMR.

The application and comments submitted in this proceeding do not contain sufficient information to find that the requirement for a permit in Sections 6.7(A) and (B), as applied and enforced, creates an obstacle to accomplishing and carrying out Federal hazardous material transportation law or the HMR. The record does not support findings that the requirement for a permit causes an unnecessary delay in the transportation of hazardous materials; that the permit fee is unfair or used for purposes other than relating to transporting hazardous materials; or that the permit sticker is a labeling or marking of hazardous material.

IV. Petition for Reconsideration/ Judicial Review

In accordance with 49 CFR 107.211(a), "[a]ny person aggrieved" by this decision may file a petition for reconsideration within 20 days of service of this decision. Any party to this proceeding may seek review of RSPA's decision "in an appropriate district court of the United States . . . not later than 60 days after the decision becomes final." 49 U.S.C. 5125(f).

This decision will become RSPA's final decision 20 days after service if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of service, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration will be RSPA's final decision. 49 CFR 107.211(d).

Issued in Washington, D.C. on August 17, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 98–22745 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Quarterly Performance Review Meeting on The Contract "Detection of Mechanical Damage in Pipelines" (Contract DTRS–56–96–C–0010)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection ("smart pig") vendors, and the general public to the next quarterly performance review meeting of progress on the contract "Detection of Mechanical Damage in Pipelines." The meeting is open to anyone, and no registration is required. This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute, and Iowa State University. The contract is a research and development contract to develop electromagnetic in-line inspection technologies to detect and characterize mechanical damage and stress corrosion cracking. The meeting will cover a review of the overall project plan, the status of the contract tasks, progress made during the past quarter, and projected activity for the next quarter.

DATES: The next quarterly performance review meeting will be held on Wednesday, September 23, 1998, beginning at 1:00 p.m. and ending around 5:00 p.m.

ADDRESSES: The quarterly review meeting will be held at The Hotel Allegro, 171 West Randolph, Chicago, Illinois 60601. The hotel's telephone number is (312) 236–0123.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is conducting quarterly meetings on the status of its contract "Detection of Mechanical Damage in Pipelines" (Contract DTRS–56–96–C–0010) because in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA will continue this practice throughout the three year contract. The research contract with Battelle is a cooperative effort between the Gas Research Institute (GRI) and DOT, with GRI providing technical guidance. The meetings allow disclosure of the results to interested parties and provide an opportunity for interested parties to ask Battelle questions concerning the research. Attendance at this meeting is open to all and does not require advanced registration nor advanced notification to RSPA.

We specifically want that segment of the pipeline industry involved with in-line inspection to be aware of the status of this contract. To assure that a cross section of industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association. Each has named an engineering/technical representative and, along with the GRI representative providing technical guidance, form the Industry Review Team (IRT) for the contract.

The original objective was to open each quarterly performance review meeting to the public. The first quarterly meeting was conducted on October 22, 1996, in Washington, DC. However, preparing for a formal briefing each quarter takes a considerable amount of time and resources on Battelle's part that could be better used to conduct the research. Therefore, Battelle requested and RSPA concurred that future public meetings would be conducted semi-annually. Conducting public meetings semi-annually will provide all interested parties with sufficient update of progress in the research. Only the IRT and RSPA staff involved with the contract will be invited to the quarterly performance review meetings held between the public semi-annual meetings.

Another objective is to conduct each semi-annual meeting at the same location and either before or after a meeting of GRI's Nondestructive Evaluation Technical Advisory Group to enable participation by pipeline technical personnel involved with nondestructive evaluation. This meeting is being held in Chicago as a dovetail to a meeting of the GRI Nondestructive

Technical Advisory Group. Each of the future semi-annual meetings will be announced in the **Federal Register** at least two weeks prior to the meeting.

II. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. Although SCC is not very common on pipelines, it usually appears in high-stressed, low-population-density areas and only when a limited set of environmental conditions are met. Several attempts have been made to develop an in-line inspection tool for SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used for metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the contract. Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

A Task 3 is presently being conducted in the option year to the contract. Task 3 is verifying the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 is (1) extending the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verifying the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluating the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, DC on August 20, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–22805 Filed 8–24–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33642]

Kyle Railroad Company—Acquisition and Operation Exemption—Omaha Public Power District

Kyle Railroad Company (KR),[1] a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire pursuant to a rail transportation agreement and operate approximately 56.75 miles of rail line as indicated by KR in its notice, which is owned by Omaha Public Power District (OPPD),[2] between milepost 56.30 at Collegeview, and milepost 6.10 at Arbor in Lancaster and Otoe Counties, NE.[3]

The transaction was expected to be consummated on or shortly after August 4, 1998.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33642, 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 Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW, Washington, DC 20005–3954.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 18, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–22610 Filed 8–24–98; 8:45 am]

BILLING CODE 4915–00–P

[1] KR states that its projected revenues will not exceed those that would qualify it as a Class III rail carrier.

[2] *See Omaha Public Power District—Acquisition—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33447 (STB served Sept. 12, 1997).

[3] On July 31, 1998, KR filed a petition for exemption in STB Finance Docket No. 33642 (Sub-No. 1), *Kyle Railroad Company—Acquisition and Operation Exemption— Omaha Public Power District*, wherein KR requests that the Board permit the proposed acquisition and operation of OPPD's rail line as described-above to expire on December 31, 2003. That petition will be addressed by the Board in a separate decision.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–NA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

OMB Number: 1545–0531.

Form Number: 706–NA.

Abstract: Form 706–NA is used to compute estate and generation-skipping transfer tax liability for nonresident alien decedents in accordance with section 6018 of the Internal Revenue Code. IRS uses the information on the form to determine the correct amount of tax and credits.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 4 hr., 21 min.

Estimated Total Annual Burden Hours: 1,304.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22675 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 709–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 709–A, United States Short Form Gift Tax Return.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Short Form Gift Tax Return.

OMB Number: 1545–0021.

Form Number: 709–A.

Abstract: Form 709–A is an annual short form gift tax return that certain married couples may use instead of Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, to report nontaxable gifts that they elect to split. The IRS uses the information on the form to assure that gift-splitting was properly elected.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 45,000.

Estimated Time Per Respondent: 58 min.

Estimated Total Annual Burden Hours: 43,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22676 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2848

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2848, Power of Attorney and Declaration of Representative.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Power of Attorney and Declaration of Representative.

OMB Number: 1545–0150.

Form Number: 2848.

Abstract: Form 2848 is used to authorize someone to act for the taxpayer in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. The information on the form is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions and farms.

Estimated Number of Respondents: 800,000.

Estimated Time Per Respondent: 1 hr., 53 min.

Estimated Total Annual Burden Hours: 1,504,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22677 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–A, United States Additional Estate Tax Return.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Additional Estate Tax Return.

OMB Number: 1545–0016.

Form Number: 706–A.

Abstract: Form 706–A is used by individuals to compute and pay the additional estate taxes due under Internal Revenue Code section 2032A(c) for an early disposition of specially valued property or for an early cessation of a qualified use of such property. The IRS uses the information to determine that the taxes have been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 180.

Estimated Time Per Respondent: 8 hr., 20 min.

Estimated Total Annual Burden Hours: 1,499.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22678 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 709

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Gift (and Generation-Skipping Transfer) Tax Return.

OMB Number: 1545–0020.

Form Number: 709.

Abstract: Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. The IRS uses the information to collect and enforce these taxes, to verify that the taxes are properly computed, and to compute the tax base for the estate tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 130,000.

Estimated Time Per Respondent: 4 hr., 38 min.

Estimated Total Annual Burden Hours: 601,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22679 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8703

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8703, Annual Certification of a Residential Rental Project.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Certification of a Residential Rental Project.

OMB Number: 1545–1038

Form Number: 8703

Abstract: Form 8703 is used by the operator of a residential rental project to

provide annual information that the IRS will use to determine whether a project continues to be a qualified residential rental project under Internal Revenue Code section 142(d). If so, and certain other requirements are met, bonds issued in connection with the project are considered "exempt facility bonds" and the interest paid on them is not taxable to the recipient.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 5 hr., 7 min.

Estimated Total Annual Burden Hours: 30,660.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22680 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8817

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8817, Allocation of Patronage and Nonpatronage Income and Deductions.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation of Patronage and Nonpatronage Income and Deductions.

OMB Number: 1545–1135.

Form Number: 8817.

Abstract: Form 8817 is filed by taxable farmers cooperatives to report their income and deductions by patronage and nonpatronage sources. The IRS uses the information on the form to ascertain whether the amount of patronage and nonpatronage income or loss were properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 1,650.

Estimated Time Per Respondent: 13 hr., 7 min.

Estimated Total Annual Burden Hours: 21,648.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22681 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720, Quarterly Federal Excise Tax Return.

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Quarterly Federal Excise Tax Return.

OMB Number: 1545–0023.

Form Number: 720.

Abstract: Form 720 is used to report (1) excise taxes due from retailers and manufacturers on the sale or manufacture of various articles, (2) the tax on facilities and services, (3) environmental taxes, (4) luxury tax, and (5) floor stocks taxes. The information supplied on Form 720 is used by the IRS to determine the correct tax liability. Additionally, the data is reported by the IRS to Treasury so that funds may be transferred from the general revenue fund to the appropriate trust funds.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 73 hr., 50 min.

Estimated Total Annual Burden Hours: 3,691,999.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22682 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8082

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. · 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8082, notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).

DATES: Written comments should be received on or before October 26, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).

OMB Number: 1545–0790

Form Number: 8082

Abstract: A partner, S corporation shareholder, or the holder of a residual interest in a real estate mortgage investment conduit (REMIC) generally must report items consistent with the way they were reported by the partnership or S corporation on Schedule K–1 or by the REMIC on Schedule Q. Also, an estate or domestic trust beneficiary, or a foreign trust owner or beneficiary, is subject to the consistency reporting requirements for returns filed after August 5, 1997. Form 8082 is used to notify the IRS of any inconsistency between the tax treatment of items reported by the partner, shareholder, etc., and the way the pass-through entity treated and reported the same item on its tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 10,600.

Estimated Time Per Respondent: 5 hr., 48 min.

Estimated Total Annual Burden Hours: 61,480.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 18, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–22683 Filed 8–24–98; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 63, No. 164
Tuesday, August 25, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

Correction

In notice document 98–18872 beginning on page 38242 in the issue of Wednesday, July 15, 1998, make the following correction:

On page 38242, in the first column, in the **DATES** section, in the third line, "July 17, 1998" should read "August 14, 1998".

BILLING CODE 1505-01-D

federal register

Tuesday
August 25, 1998

Part II

Environmental Protection Agency

Department of Defense

40 CFR Chapter VII and Part 1700
Uniform National Discharge Standards for Vessels of the Armed Forces; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF DEFENSE

40 CFR Chapter VII and Part 1700

[FRL–6145–4]

RIN 2040–AC96

Uniform National Discharge Standards for Vessels of the Armed Forces

AGENCY: Environmental Protection Agency (EPA) and Department of Defense (DOD).

ACTION: Proposed rule.

SUMMARY: This proposed rule describes the types of discharges generated incidental to the normal operation of Armed Forces vessels and identifies which of these discharges the Armed Forces will be required to control, and which vessel discharges will not require pollution controls.

Today's proposal also addresses; the mechanism by which States can petition EPA and DOD to review whether or not a discharge should require control by a marine pollution control device (MPCD), or to review a Federal performance standard for a MPCD; the effect on State regulation of vessel discharges; and the processes to be followed by EPA and States when establishing no-discharge zones (where any release of a specified discharge is prohibited).

This is the first phase of a three-phased process to set uniform national discharge standards (UNDS) for Armed Forces vessels. Phase I will establish which types of discharges warrant control and which do not, based on consideration of the anticipated environmental effects of the discharge and other factors listed at section 312(n) of the Clean Water Act. Phase II will promulgate MPCD performance standards, and Phase III will specify requirements for the design, construction, installation, and use of MPCDs.

Uniform national discharge standards will result in enhanced environmental protection because standards will be established for certain discharges that currently are not regulated comprehensively. These standards will also advance the ability of the Armed Forces to better design and build environmentally sound vessels, to train crews to operate vessels in a manner that is protective of the environment, and to maintain operational flexibility both domestically and internationally. In addition, these standards are expected to stimulate the development of innovative vessel pollution control technology.

DATES: Comments on the proposed rule must be received or postmarked by October 9, 1998. For information on submitting comments on the draft information collection request that was prepared for the proposed rule, see **SUPPLEMENTARY INFORMATION** "How to Submit Comments on the Information Collection Request."

ADDRESSES: Send written comments on the proposed rule to: Docket W–97–21 UNDS Comment Clerk, Water Docket, Mail Code 4101, U.S. EPA, 401 M Street SW., Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). No facsimiles (faxes) will be accepted. Commenters requesting acknowledgment that their comments were received should enclose a self-addressed stamped envelope with their comments. Comments may also be filed electronically to ow-docket@epa.gov. Electronic comments must be submitted as an ASCII or WordPerfect file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W–97–21 and may be filed online at many Federal Depository Libraries.

The record for this proposed rulemaking has been established under docket number W–97–21 and is available for review at the Office of Water Docket, Room EB–57, 401 M Street SW., Washington, DC The record is available for inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

For information on how to obtain a copy of the Information Collection Request (ICR) that has been prepared for this proposed rule, or for information on where to submit comments on the draft ICR document, see **SUPPLEMENTARY INFORMATION** "How to Submit Comments on the Information Collection Request."

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Stapleton (U.S. EPA) at (202) 260–0141, or Mr. David Kopack (U.S. Navy) at (703) 602–3594 ext. 243.

SUPPLEMENTARY INFORMATION:

Regulated Entities

This proposed rule would apply to discharges incidental to the normal operation of vessels of the Armed Forces, establish procedures for States to petition EPA and DOD to review whether a discharge should be controlled, and establish procedures for creating no-discharge zones in State waters. Regulated categories and entities include:

Category	Examples of regulated entities
Federal Government.	Vessels of the Armed Forces, including the Navy, Military Sealift Command, Marine Corps, Army, Air Force, and Coast Guard.

The preceding table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA and DOD are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether a particular category of vessel, discharge from a vessel, or governmental entity is regulated by this proposed action, carefully examine the applicability criteria at proposed 40 CFR 1700.1 in the regulatory text following this preamble. For answers to questions regarding the applicability of this proposed action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Exclusions

This proposed rule would not apply to commercial vessels; private vessels; vessels owned or operated by State, local, or tribal governments; vessels under the jurisdiction of the Army Corps of Engineers; vessels, other than those of the Coast Guard, under the jurisdiction of the Department of Transportation; vessels preserved as memorials and museums; time- and voyage-chartered vessels; vessels under construction; vessels in drydock; and amphibious vehicles.

Supporting Documentation

The technical basis for this proposed rule is detailed in the "Technical Development Document for Proposed Phase I Uniform National Discharge Standards for Vessels of the Armed Forces" (EPA–821–R–98–009), hereafter referred to as the Technical Development Document. This background document is available through EPA's Internet Home Page at http://www.epa.gov/OST/rules, or through the UNDS Internet Home Page at http://206.5.146.100/n45/doc/unds/unds.html. This document is also available from the EPA Water Resource Center, Room EB–47, 401 M Street SW., Washington, DC 20460; telephone (202) 260–7786 for the voice mail publication request line.

How To Submit Comments on the Information Collection Request

An Information Collection Request (ICR) document has been prepared by EPA (ICR No.1791.02, amending the collection with OMB control #2040–0187) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr.

Send comments on the ICR to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., S.W., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 25, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by September 24, 1998.

Overview

This preamble describes the legal authority, background, technical basis, and other aspects of the proposed regulation. The definitions, acronyms, and abbreviations used in this proposed rule are defined in appendix A to the preamble. The regulatory text for this proposed rule (40 CFR Part 1700) follows the preamble.

Organization of This Document

I. Purpose and Summary of This Rulemaking

A. Pollution Control Requirements for Vessel Discharges

Today's document proposes to create a new 40 CFR Part 1700 establishing uniform national discharge standards that would apply to discharges incidental to the normal operation of vessels of the Armed Forces. Incidental discharges include effluent from the normal operation of vessel systems or hull protective coatings, but do not include such things as emergency discharges, air emissions, or discharges of trash. These proposed regulations identify discharges that would require control through the use of marine pollution control devices (MPCDs). This document also identifies discharges that are proposed to be excluded from any requirement for a marine pollution control device because of their low potential for causing environmental impacts.

This proposed rule addresses 39 types of discharges from Armed Forces vessels. EPA and DOD are proposing to require the use of MPCDs to control 25 of these discharges. These discharges are listed in Table 1 and described in section V.C of the preamble. Section V.C also discusses whether and to what extent the discharges have the potential to cause adverse impacts on the marine environment, the availability of MPCDs to mitigate adverse impacts, and the rationale for proposing to require the use of MPCDs.

TABLE 1.—DISCHARGES REQUIRING MARINE POLLUTION CONTROL DEVICES

Aqueous Film-Forming Foam.
Catapult Water Brake Tank and Post-Launch Retraction Exhaust.
Chain Locker Effluent.
Clean Ballast.
Compensated Fuel Ballast.
Controllable Pitch Propeller Hydraulic Fluid.
Deck Runoff.
Dirty Ballast.
Distillation and Reverse Osmosis Brine.
Elevator Pit Effluent.
Firemain Systems.
Gas Turbine Water Wash.
Graywater.
Hull Coating Leachate.
Motor Gasoline Compensating Discharge.
Non-oily Machinery Wastewater.
Photographic Laboratory Drains.
Seawater Cooling Overboard Discharge.
Seawater Piping Biofouling Prevention.
Small Boat Engine Wet Exhaust.
Sonar Dome Discharge.
Submarine Bilgewater.
Surface Vessel Bilgewater/Oil-Water Separator Discharge.
Underwater Ship Husbandry.
Weildeck Discharges.

For 14 types of vessel discharges, EPA and DOD have determined that it is not reasonable and practicable to require the use of MPCDs because these discharges, listed in Table 2, exhibit a low potential for causing adverse impacts on the marine environment. Section V.D of the preamble describes each of these discharges and the reasons why MPCDs would not be required.

TABLE 2.—DISCHARGES EXEMPTED FROM CONTROLS

Boiler Blowdown.
Catapult Wet Accumulator Discharge.
Cathodic Protection.
Freshwater Lay-up.
Mine Countermeasures Equipment Lubrication.
Portable Damage Control Drain Pump Discharge.
Portable Damage Control Drain Pump Wet Exhaust.
Refrigeration/Air Conditioning Condensate.
Rudder Bearing Lubrication.
Steam Condensate.
Stern Tube Seals and Underwater Bearing Lubrication.
Submarine Acoustic Countermeasures Launcher Discharge.
Submarine Emergency Diesel Engine Wet Exhaust.
Submarine Outboard Equipment Grease and External Hydraulics.

B. Effect on State and Local Laws and Regulations

This proposed rule, identifying which vessel discharges require control, is the first step of a three-phased process to establish uniform national discharge

standards under section 312(n) of the Clean Water Act (CWA). Establishing MPCD performance standards and promulgating regulations governing the design and use of MPCDs will be accomplished in the second and third phases of the UNDS process. The standards being proposed today affect State and local laws and regulations in several ways. Under section 312(n)(6) of the Clean Water Act (CWA), States and their political subdivisions would be prohibited from adopting or enforcing any State or local statute or regulation with respect to the discharges listed in Table 2 once this proposed rule is in effect, other than to establish no-discharge zones for these discharges. States and their political subdivisions would be similarly prohibited from adopting or enforcing any statutes or regulations affecting the discharges listed in Table 1 once regulations governing MPCDs for those discharges are in effect.

Second, this notice proposes the procedural mechanisms by which a State can petition EPA and DOD to review whether a discharge should require control by a MPCD. Finally, this proposed rule would codify the process for establishing no-discharge zones (where any release of a specified discharge is prohibited) where necessary to protect and enhance the quality of some or all of the waters within a State. These procedures, contained in proposed 40 CFR 1700.6 through 1700.13, are discussed in section VI of this preamble.

II. Legal Authority and Background

A. Clean Water Act Statutory Requirements

Section 325 of the National Defense Authorization Act of 1996, entitled "Discharges from Vessels of the Armed Forces" (Pub. L. 104–106, 110 Stat. 254), amended section 312 of the Federal Water Pollution Control Act (also known as the Clean Water Act, or CWA) to require the Secretary of Defense (Secretary) and the Administrator of the United States Environmental Protection Agency (Administrator) to develop uniform national standards to control certain discharges from vessels of the Armed Forces. Congress established requirements for the development of uniform national discharge standards to (1) enhance the operational flexibility of vessels of the Armed Forces domestically and internationally, (2) stimulate the development of innovative vessel pollution control technology, and (3) advance the development by the U.S. Navy of environmentally sound ships. The term "UNDS" is used in this preamble to refer to the provisions in section 312(n) of the CWA (33 U.S.C. 1322(n)).

UNDS applies to vessels of the Armed Forces and discharges (other than sewage) incidental to their normal operation, unless the Secretary finds that compliance with UNDS would not be in the national security interests of the United States (see CWA section 312(n)(1)). UNDS does not apply to discharges overboard of rubbish, trash, garbage, or other such materials; air emissions resulting from a vessel propulsion system, motor driven equipment, or incinerator; or discharges that require permitting under the National Pollutant Discharge Elimination System (NPDES) program, 40 CFR part 122 (see CWA section 312(a)(12)).

UNDS is applicable to discharges of Armed Forces vessels in the navigable waters of the United States and the contiguous zone. As defined in section 502(7) of the CWA, the term "navigable waters" means waters of the United States, including the Great Lakes, and includes waters seaward from the coastline to a distance of 3 nautical miles from the shore of the States, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territories of the Pacific Islands. The contiguous zone extends from 3 nautical miles to 12 nautical miles from the coastline. UNDS is not enforceable beyond the contiguous zone.

Although UNDS makes no changes to the regulation of sewage from vessels, UNDS was patterned after provisions for the control of vessel sewage discharges in the CWA (sections 312(a)—(m)). These provisions require promulgation of Federal standards for performance of marine sanitation devices, preemption of State regulation of marine sanitation devices, and the opportunity to establish no-discharge zones (see CWA sections 312(a)–(m) and 40 CFR part 140).

UNDS requires EPA and the Department of Defense (DOD) to develop regulations and performance standards for controlling discharges incidental to the normal operation of Armed Forces vessels where EPA and DOD determine that it is reasonable and practicable to require use of a marine pollution control device (MPCD) to mitigate adverse impacts on the marine environment. The UNDS regulations are to be developed in three phases:

Phase I: The first phase requires DOD and EPA to determine Armed Forces vessel discharges for which it is reasonable and practicable to require control with a MPCD to mitigate potential adverse impacts on the marine environment (CWA section 312(n)(2)). The UNDS legislation states that a MPCD may be a piece of equipment or a management practice designed to control a particular discharge (CWA section 312(a)(13)). DOD and EPA are required to consider seven factors in determining whether a discharge requires a MPCD (CWA section 312(n)(2)(B)):

- The nature of the discharge.
- The environmental effects of the discharge.
- The practicability of using the MPCD.
- The effect that installing or using the MPCD has on the operation or the operational capability of the vessel.
- Applicable United States law.
- Applicable international standards.
- The economic costs of installing and using the MPCD.

The UNDS legislation requires DOD and EPA to consult with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States in the Phase I rule development. UNDS provides that after promulgation of the Phase I rule, neither States nor political subdivisions of States may adopt or enforce any State or local statutes or regulations with respect to discharges identified as not requiring control with a MPCD, except to establish no-discharge zones (CWA section 312(n)(6)).

Phase II: The second phase of UNDS requires DOD and EPA to promulgate Federal performance standards for each MPCD determined to be required in Phase I (CWA section 312(n)(3)). Phase II requires consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of State, the Secretary of Commerce, other interested Federal agencies, and interested States. In developing performance standards for the Phase II rulemaking, DOD and EPA are to consider the same seven factors identified for Phase I, and can establish standards that (1) distinguish among classes, types, and sizes of vessels; (2) distinguish between new and existing vessels; and (3) provide for a waiver of applicability of standards as necessary or appropriate to a particular class, type, age, or size of vessel (CWA section 312(n)(3)(C)). The mechanisms for determining compliance with performance standards and the role of States and Federal agencies in enforcement matters will be addressed during Phases II and III.

Phase III: The third phase requires DOD, in consultation with EPA and the

Secretary of the department in which the Coast Guard is operating, to establish requirements for the design, construction, installation, and use of the MPCDs identified in Phase II (CWA section 312(n)(4)). These Phase III requirements will be codified under the authority of the Secretary of Defense. Additional details regarding codification of these requirements will be provided in Phase II. Following completion of Phase III, neither States nor political subdivisions of States may adopt or enforce any State or local statutes or regulations with respect to discharges identified as requiring control with a MPCD, except to establish no-discharge zones (CWA section 312(n)(6)).

UNDS provides for the establishment of no-discharge zones either by State prohibition (CWA section 312(n)(7)(A)) or by EPA prohibition (CWA section 312(n)(7)(B)). Today's proposal addresses the criteria and procedures for establishing no-discharge zones. For a State prohibition, if a State determines that the protection and enhancement of the quality of some or all of its waters require greater environmental protection, the State may prohibit one or more discharges, whether treated or not, into those waters. However, the statute provides that such a prohibition shall not be effective until EPA determines that there are adequate facilities for the safe and sanitary removal of the discharges(s), and that the prohibition will not have the effect of discriminating against an Armed Forces vessel by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.

For a no-discharge zone by EPA prohibition, a State may request EPA to prohibit, by regulation, the discharge of one or more discharges, whether treated or not, into specified waters within a State. In this case, EPA makes the determination that the protection and enhancement of the quality of the specified waters require a prohibition of the discharge. As with a State prohibition, EPA must also determine that there are adequate facilities for the safe and sanitary removal of the discharge, and that the prohibition will not discriminate against Armed Forces vessels by reason of their Federal ownership or operation, or their military function. However, the statute directs that EPA shall not disapprove an application for an EPA prohibition for the sole reason that there are not adequate facilities for the safe and sanitary removal of such discharges.

The UNDS legislation contains two provisions for reviewing and modifying performance standards and determinations of whether a MPCD is required. The first requires DOD and EPA to review the determinations and standards every five years, and if necessary, revise them based on any significant new information (CWA sections 312(n)(5)(A) and (B)). The second provision allows States, at any time, to petition the Secretary and the Administrator to review the determinations (after Phase I) and standards (after Phase II) if there is significant new information, not considered previously, that could reasonably result in a change to the determination or standard (CWA section 312(n)(5)(D)).

B. Summary of Public Outreach and Consultation With States and Federal Agencies

In developing this proposed rule, EPA and DOD have consulted with other interested Federal agencies, States, and environmental organizations. Other Federal agencies that have been involved in UNDS development include the Coast Guard (for the Department of Transportation), the Department of State, and the National Oceanic and Atmospheric Administration (for the Department of Commerce). The Coast Guard has been involved in all aspects of UNDS development. The other agencies have participated with the DOD, EPA, and the Coast Guard in the UNDS Executive Steering Committee, which is responsible for UNDS policy development and is composed of senior-level managers. Separately, the DOD and EPA have held discussions with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on UNDS matters.

Two mechanisms have been used to consult with States. First, a representative from the Environmental Council of the States (ECOS) participates in Executive Steering Committee meetings. ECOS is the national association of State and territorial environmental commissioners and has been established, in part, to provide State positions on environmental issues to EPA. Second, representatives from the Navy (as the lead for the DOD), EPA, and the Coast Guard met at least once, and in most cases twice, with each State expressing an interest in the UNDS development. The interested States were predominantly those with a significant presence of Navy or Coast Guard vessels. The States participating in the consultation meetings are identified in the Technical Development Document.

In early 1996, the Navy and EPA invited States with a DOD or Coast Guard vessel presence to participate in an initial round of consultation meetings. Of the approximately 40 States invited, 21 States requested a consultation meeting. These initial State consultation meetings were held between August and December 1996. State environmental regulatory authorities hosted each meeting, which consisted of a Navy/EPA briefing on UNDS activities and an opportunity to discuss State-specific issues. A Coast Guard representative was present at each meeting to provide input on discharges from Coast Guard vessels. The Navy/EPA briefing provided a summary of the UNDS history and requirements, considerations for evaluating discharges, the technical approach to determining which discharges will require control, an overview of the vessels to which UNDS is applicable, and the roles of DOD and EPA in the rulemaking process. See "Uniform National Discharge Standards (UNDS) State Consultation Meetings (Round #1) Compendium of Minutes," available in the record for this proposed rule.

The Navy and EPA conducted a second round of State consultation meetings from October 1997 through January 1998. Of the 22 States consulted in the second round of meetings, five were States that had not been briefed during the initial round. The second round of consultation meetings provided Navy and EPA an opportunity to summarize the activities that had taken place since the initial round of consultation meetings. This included discussing the 39 types of vessel discharges covered by this proposed rule and the preliminary decisions regarding which of the discharges would be proposed to require control. States were provided information that included a description of the discharges and the equipment or processes generating the discharges, the locations where the discharges occur, vessels producing the discharges, the preliminary results of environmental effects analyses, and the preliminary conclusions of whether controls would be required. States were generally supportive of the UNDS effort. States most commonly expressed interest in matters related to the implementation of UNDS regulations, including enforcement and procedures for establishing no-discharge zones, the relationship between UNDS and other State programs, which vessels are subject to UNDS, and discussions about potential MPCD options.

In addition to State meetings, the Navy, EPA, and Coast Guard met with several environmental organizations in December 1997 and May 1998. Details

of the topics discussed and environmental organizations represented at those meetings are in the record for this proposed rule. A compendium of the minutes from the second round of State consultation meetings and the meetings with environmental organizations is available in the record for this proposed rule. See "Uniform National Discharge Standards (UNDS) Consultation Meetings (Round #2) Compendium of Minutes."

The Navy and EPA publish a newsletter that contains feature articles on UNDS-related subjects (e.g., nonindigenous species, Navy research and development programs), provides answers to frequently asked questions, and provides an update on recent progress and upcoming events. The newsletter is mailed to State and environmental group representatives, Armed Forces and EPA contacts, and interested members of the general public. The newsletter has a current circulation of 360 copies, approximately 200 of which are distributed outside of the EPA, DOD, or their contractors. In addition, electronic copies of the newsletter are available from an UNDS web site on the Internet (http://206.5.146.100/n45/doc/unds/unds.html). In addition to the newsletter, the Internet web site provides UNDS legislative information, a summary of the technical and management approach to rule development, and a description of the benefits expected to result from the development of UNDS.

III. Description of Armed Forces Vessels

Section 312(a)(14) of the CWA, as amended by the National Defense Authorization Act of 1996, defines a vessel of the Armed Forces as "(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and (B) any vessel owned or operated by the Department of Transportation that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel [owned or operated by the DOD]." The CWA defines a vessel as every type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States. See CWA sections 312(a)(1) and 312(a)(2). Also see 40 CFR 140.1(d).

The scope of the UNDS legislation addresses incidental discharges from over 7,000 vessels (i.e., ships, submarines, and small boats and craft) of differing designs and mission requirements. The Armed Forces that operate vessels subject to UNDS include the Navy, Military Sealift Command, Army, Marine Corps, Air Force, and Coast Guard. Table 3 summarizes the number of vessels operated by each of these branches of the Armed Forces as of August 1997. The following sections provide a general description of the mission of vessels operated by each branch of the Armed Forces and the types of vessels covered by UNDS. Also provided is a description of the vessels that are excluded from this proposed rule. Armed Forces vessels and their operating locations are discussed in more detail in the Technical Development Document.

TABLE 3.—NUMBER OF ARMED FORCES VESSELS

Branch of armed forces	Number of vessels
Navy	4,760
Military Sealift Command	57
Army	334
Marine Corps	538
Air Force	36
Coast Guard	1,445
Total	7,172

A. U.S. Navy

The role of the Navy is to maintain an effective naval fighting force for the defense of the United States in times of war, and to deploy this force to prevent conflicts and control crises around the world. The Navy is responsible for organizing, training, and equipping its forces to conduct prompt and sustained combat operations at sea. The fleet must be capable of carrying personnel, weapons, and supplies wherever needed.

The Navy currently owns and operates over 4,700 vessels. Navy vessels can be categorized into eight groups by similar mission: aircraft carriers, surface combatants, amphibious ships, submarines, auxiliaries, mine warfare ships, service craft and small boats, and inactive assets. Naval ships and submarines are ocean-going vessels that for the most part operate within 12 nautical miles (n.m.) from shore only during transit in and out of port. However, many of these vessels spend approximately 180 days per year in port, and many testing and maintenance activities are conducted in port or during transits. Service craft and small boats typically operate in ports or other coastal waters within 12 n.m. from shore. Unlike service craft, small boats are often kept out of the water when not in use to increase the vessels' longevity. Inactive assets include a variety of vessel types. The majority of inactive vessels are scheduled for scrapping, transfer to the Maritime Administration, or foreign sale. Table 4 provides a brief description of the vessel types, and information on the number of vessels and the vessels' primary operating areas.

The Navy bases the majority of its fleet at five major ports: Norfolk, Virginia; San Diego, California; Mayport, Florida; Puget Sound, Washington; and Pearl Harbor, Hawaii. These ports provide services including: pierside support services (e.g., potable water, sewage and trash disposal, and electrical power); supplies (e.g., repair parts, consumable materials, and food); and maintenance and repair functions. The Navy operates additional ports, identified in the Technical Development Document, that provide a subset of these services.

TABLE 4.—U.S. NAVY VESSELS

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Aircraft Carriers	Provide air combat support to the fleet with landing and launch platforms for airplanes and helicopters.	12		X
Surface Combatants	Provide air defense, ballistic missile defense, antisubmarine warfare support, antisurface warfare support, merchant and carrier group protection, independent patrol operations, and tactical support of land-based forces.	139		X

TABLE 4.—U.S. NAVY VESSELS—Continued

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Amphibious Ships	Provide a landing and take-off platform for aircraft, primarily helicopters, and a means for launching and recovering smaller landing craft.	39	X	X
Submarines	Provide strategic and ballistic defense, search and rescue, and research and survey capability.	88		X
Auxiliaries	Provide logistical support, such as underway replenishment, material support, and rescue and salvage operations.	20		X
Mine Warfare Ships	Conduct minesweeping missions to find, classify, and destroy mines ...	26	X	
Service Craft and Small Boats	Provide a variety of services. Includes tug boats, landing craft, training craft, torpedo retrievers, patrol boats, utility boats, floating drydocks, barges, and transport boats.	4,192	X	
Inactive Assets	Vessels in various states of readiness, the majority of which are scheduled for scrapping, transfer to MARAD, or sale to foreign nations.	244	X[a]	

[a] These vessels are not operated and are kept at various port locations

B. Military Sealift Command (MSC)

The primary mission of the MSC is to transport Department of Defense materials and supplies, provide towing and salvage services, and conduct specialized missions for Federal agencies. To accomplish this, the MSC maintains and operates a fleet of vessels classified within four major maritime programs: the Special Mission Support Force (SMSF); the Naval Fleet Auxiliary Force (NFAF); the Afloat Prepositioning Force; and MSC Strategic Sealift Program. MSC vessels are operated primarily by civil service mariners, but also by some military personnel or mariners under contract to MSC. UNDS does not apply to chartered Strategic Sealift and Afloat Prepositioning Force vessels. See CWA section 312(a)(14) excluding time or voyage chartered vessels from the definition of vessels of the Armed Forces.

MSC vessels provide support to other Armed Forces vessels and can be stationed around the globe to ensure rapid support. MSC vessels are ocean-going vessels that typically operate within 12 n.m. only during transit in and out of port. Some testing and maintenance activities are conducted while the vessel is in port or during transits through coastal waters. Table 5 provides a brief description of MSC vessel types, and information on the number of vessels and their primary operating areas.

The MSC operates no major port facilities of its own, instead maintaining its vessels at Navy and commercial port facilities. A number of MSC replenishment and auxiliary vessels operate out of the Navy's ports in Norfolk, Virginia; San Diego, California; and Pearl Harbor, Hawaii.

TABLE 5.—MSC VESSELS

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Special Mission Support Force	Support the Armed Forces in specialized missions such as undersea surveillance, missile range tracking, oceanographic and hydrographic surveys, acoustic research, and submarine escort.	22		X
Naval Fleet Auxiliary Force	Provide underway replenishment services (i.e., deliver fuel, food, spare parts, equipment, and ammunition) to Navy surface combatants, as well as ocean towing and salvage services.	35		X

C. U.S. Coast Guard

The Coast Guard is a component of the Department of Transportation and is responsible for enforcing laws on waters of the U.S., including coastal waters, oceans, lakes, and rivers subject to the jurisdiction of the United States. Peacetime missions include enforcing recreational boating safety, conducting search and rescue operations, maintaining aids to navigation, ensuring merchant marine safety, providing drug interdiction, and facilitating environmental protection efforts. In time of war, the Coast Guard may become a part of the Navy.

Coast Guard vessels may be categorized as: icebreakers; cutters; tenders; tugboats; small boats and craft; and other vessels. Table 6 provides a brief description of the vessel types, and information on the number of vessels and their typical operating areas.

The major Coast Guard facilities are located in Boston, Massachusetts; Honolulu, Hawaii; Charleston, South Carolina; Alameda, California; Galveston, Texas; Seattle, Washington; Miami, Florida; and Portsmouth, Virginia. Coast Guard duty stations can also be found on inland, coastal, and river waterways throughout the U.S. Ship repair and overhaul is usually conducted at a commercial facility near the homeport of the vessel.

TABLE 6.—U.S. COAST GUARD VESSELS

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Ice breakers	Support the winter icebreaking efforts in order to maintain open waterways in the Arctic, Antarctic, and the northern regions of the United States including the Great Lakes, Northwest, and Northeast.	3	X	X
Cutters	Provide multi-mission capability, including patrol, air defense, search and rescue, and drug interdiction.	128	X	X
Tenders	Used to maintain inland river, coastal, and offshore buoys and navigational aids, or to serve as a construction platform.	76	X	
Tugboats	Provide towing and support services to other vessels	20	X	
Small Boats and Craft	Used in harbors, in rough surf for rescue, for inland river and lake patrol, as transports, and for firefighting.	1,217	X	
Other Vessel	Includes a sailing cutter used for training	1	X	

D. U.S. Army

Army vessels are used primarily for ship-to-shore transfer of equipment, cargo, and personnel. The Army operates one major port facility at Fort Eustis, Virginia for active duty vessels, and numerous other port facilities for reserve duty vessels. The Army's fleet is divided into three categories: the Transportation Corps, the Intelligence and Security Command, and the Corps of Engineers. The Army Transportation Corps operates lighterage and floating utility craft to provide waterborne delivery (inland and ship-to-shore) of equipment and supplies for all Armed Forces and to perform port terminal operations. The Intelligence and Security Command operates patrol vessels for drug interdiction. Army Corps of Engineers (COE) boats and craft are excluded from UNDS as discussed in section III.G of the preamble. Table 7 provides a brief description of Army vessels subject to the proposed rule, and information on the number of vessels and their primary operating areas.

TABLE 7.—U.S. ARMY VESSELS

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Lighterage	Transport equipment, cargo, and personnel	159	X	X
Floating Utility	Perform port terminal operations	168	X	
Patrol Ships	Perform drug interdiction	7		X

E. U.S. Marine Corps

A primary role of the Marine Corps is to employ military forces and equipment onto land from the sea. The Marine Corps uses 538 inflatable rubber craft for in-port, river, lake, and coastal operations. These craft are often kept out of the water when not in use to increase the craft's longevity. The Marine Corps makes use of available local port facilities and operates no major port facilities of its own.

F. U.S. Air Force

The Air Force operates some large vessels and a number of smaller boats and craft at various locations to support missile testing and operations. Table 8 provides a brief description of the vessel types, and information on the number of vessels and their primary operating areas.

The Air Force operates no major port facilities of its own. The larger Air Force vessels are located at Tyndall Air Force Base, Florida, and at Carrabelle, Florida. Small boats and craft are distributed among a number of local ports.

TABLE 8.—U.S. AIR FORCE VESSELS

Vessel type	Mission	Number	Primary operational area	
			Inside 12 n.m.	Outside 12 n.m.
Missile Retriever	Used to locate and recover practice missiles	5	X	X
Floating Utility	Used primarily for transportation, training, and repair	31	X	

G. Vessels Not Covered by This Proposed Rule

This proposed rule would apply only to Armed Forces vessels. This proposed rule would not apply to commercial vessels; privately owned vessels; vessels owned or operated by State, local, or tribal governments; vessels under the jurisdiction of the Army Corps of Engineers; vessels, other than those of the Coast Guard, under the jurisdiction of the Department of Transportation; vessels owned or operated by other Federal agencies that are not part of the Armed Forces; vessels preserved as

memorials and museums; time- and voyage-chartered vessels; vessels under construction; vessels in drydock; and amphibious vehicles. For clarification, several categories of these types of vessels that are beyond the scope of this proposed rule are described below.

1. U.S. Army Corps of Engineers Vessels

Army Corps of Engineers vessels are typically used for civil works purposes. Congress has consistently addressed the Army Corps of Engineers separately from other parts of the Department of Defense in both authorization and appropriations bills. Therefore, the DOD and EPA do not consider that Congress intended to apply UNDS to Army Corps of Engineers vessels.

2. Maritime Administration (MARAD) Vessels

A number of vessels are operated or maintained by the Maritime Administration, a part of the Department of Transportation. As established in section 312(a)(14) of the CWA, the definition of "vessel of the Armed Forces" includes those Department of Transportation vessels that are designated by the Secretary of the department in which the U.S. Coast Guard is operating (currently the Department of Transportation) as operating as a vessel equivalent to a DOD vessel. The Secretary of Transportation has determined that MARAD vessels, including the National Defense Reserve Fleet, do not operate equivalently to DOD vessels, and therefore MARAD vessels are not covered by UNDS.

3. Memorial and Museum Vessels

Ships and submarines preserved as memorials and museums once served a military mission. However, with the exception of one submarine, these vessels are no longer owned or operated by the Armed Forces, and therefore, they are not vessels of the Armed Forces and UNDS does not apply to them.

The submarine Nautilus is owned and operated by the Navy as a museum; however, the vessel is stationary and its systems are not routinely operated. Therefore, the EPA and DOD are proposing to exclude this vessel from the scope of UNDS.

4. Time- and Voyage-Chartered Vessels

CWA section 312(a)(14) specifically excludes time or voyage chartered vessels from the definition of "vessels of the Armed Forces." Time- and voyage-chartered vessels are vessels operating under a contract between the vessel owner and a charterer (in this case, the Armed Forces) whereby the charterer hires the vessel for a specified time period or voyage, respectively. Such vessels at all times remain manned and navigated by the owner, and they are not owned and operated by the Armed Forces. Examples of chartered vessels are those operated by the MSC in the Afloat Prepositioning Force and the Strategic Sealift Program.

5. Vessels Under Construction

EPA and DOD do not consider a vessel under construction for the DOD or Coast Guard, and for which the Federal government has not taken custody, to be a "vessel of the Armed Forces." UNDS would not apply to these vessels until the Federal government gains custody.

6. Vessels in Drydock

The statutory definition of "discharge incidental to the normal operation of a vessel" includes incidental discharges whenever the vessel is waterborne. See CWA section 312(a)(12). UNDS would not apply to discharges from vessels while they are in drydock because they are not waterborne, even if the discharges would otherwise meet the definition of a "discharge incidental to the normal operation of a vessel."

7. Amphibious Vehicles

EPA and DOD do not consider amphibious vehicles as a vessel for the purposes of UNDS because they are operated primarily as vehicles on land. Water use of these vehicles is of short duration for nearshore transit to and from vessels.

IV. Summary of Data Gathering Efforts

Once the scope of vessels to which UNDS would apply was determined, it was necessary to identify the universe of discharges and to characterize the nature of these discharges. The data gathering effort to support these objectives included surveys and consultations involving DOD and Coast Guard personnel with expertise in vessel operations and shipboard systems or equipment generating the discharges. The survey and consultation results were supplemented with sampling, where necessary. The following sections provide an overview of the data collection efforts. Additional details are presented in the Technical Development Document.

A. Surveys and Consultations

The Navy initiated the data collection process by compiling a list of discharges and existing information on these discharges, including summary results of previous sampling studies. The information was presented in a single report, "U.S. Navy Ship Wastewater Discharges," available in the record for this proposed rule. The Navy provided this report, along with a survey, to each branch of the Armed Forces at the headquarters and field levels, including both shore installations and shipboard operators. The survey solicited comments on the accuracy and completeness of the attached report, and sought information on which vessels generate the discharges, discharge characteristics (e.g., pollutant constituents, discharge volumes, and flow rates), and any existing reports or documentation relating to any discharges not identified in the report.

The Navy and EPA supplemented the survey results by conducting ship visits and consulting with DOD and Coast Guard personnel with expertise in vessel systems, equipment, and operations that produce the discharges. The purpose of these consultations and ship visits was to clarify information gathered and to ensure all existing information on discharges was obtained.

B. Sampling and Analysis

As a result of the survey and consultation process, EPA and DOD identified 39 types of discharges incidental to the normal operation of Armed Forces vessels. For 30 of the 39 discharges, existing information gathered from surveys and consultations was sufficient to characterize the nature of the discharges and assess potential environmental impacts, if any, resulting from the discharges. EPA and DOD determined that existing information was insufficient to characterize the constituents and determine the environmental effects of the remaining nine discharges. These nine discharges, identified in Table 9, were sampled to obtain the additional data.

TABLE 9.—DISCHARGES SAMPLED

—Boiler Blowdown.
—Compensated Fuel Ballast.
—Distillation and Reverse Osmosis Brine.
—Firemain Systems.
—Freshwater Lay-up
—Non-Oily Machinery Wastewater.
—Seawater Cooling Overboard Discharge.
—Steam Condensate.
—Surface Vessel Bilgewater/Oil-Water Separator Discharge.

Samples were collected from ten vessels, representing a total of six Navy, Coast Guard, and MSC vessel types. Navy vessels sampled included an aircraft carrier, three surface combatants, two amphibious ships, and a submarine. Also sampled were a Coast Guard cutter and two MSC oilers, which are vessels used for fuel transport. The

sampling program was structured to address differences in wastestream characteristics among certain vessel types. Information on the discharges that were sampled from each ship and the constituents analyzed for each discharge is presented in the Technical Development Document. The technical basis for selecting the constituents analyzed and the reasons for sampling specific discharges on certain ship classes are presented in the document entitled "Uniform National Discharge Standards Rationale for Initial Discharge Sampling." Both documents are available in the record for this proposed rule.

V. Marine Pollution Control Device (MPCD) Requirements

CWA section 312(n)(2)(B) identifies the seven factors EPA and DOD are to consider in determining for which discharges it is reasonable and practicable to require use of a MPCD to mitigate adverse impacts on the marine environment. Those factors are listed in section II.A of this preamble. The methodology EPA and DOD used to assess the environmental effects, if any, resulting from each of the discharges is presented in section V.A below.

This proposed rule would apply to 39 types of vessel discharges. EPA and DOD are proposing to require the use of MPCDs to control 25 of these discharges. These discharges are listed in Table 1 and described below in section V.C. Section V.C also discusses the potential for the discharges to cause adverse impacts on the marine environment and the availability of MPCDs to mitigate adverse impacts. The MPCDs mentioned below in sections V.C may not be uniformly applicable to all vessels. The performance standards to be promulgated in a future rulemaking (UNDS Phase II) may distinguish among classes, types, and sizes of vessels; distinguish between new and existing vessels; and provide for a waiver of applicability for a particular class, type, age or size of vessel. (See CWA section 312(n)(3)C).)

EPA and DOD are proposing not to require the use of MPCDs for the remaining 14 vessel discharges. These discharges, listed in Table 2 and described below in section V.D, exhibit a low potential for causing adverse impacts on the marine environment. Therefore, EPA and DOD have determined, for this proposed rule, that it is not reasonable and practicable to require the use of MPCDs to mitigate adverse impacts on the marine environment.

A. Overview of Assessment Methodology

For the purposes of this proposed rule, EPA and DOD assessed the potential environmental effects of the discharges by asking the following questions concerning their chemical, physical, and biological characteristics:

—*Chemical Constituents.* Does the discharge contain constituents in concentrations that exceed State aquatic water quality criteria or Federal aquatic water quality criteria (as promulgated by EPA in the National Toxics Rule, 40 CFR 131.36) and have the potential to be released into the environment in significant amounts, resulting in a potential adverse impact on the environment?

—*Thermal Pollution.* Does the discharge pose the potential to exceed State thermal water quality criteria in the receiving waters beyond a mixing zone, and to a degree sufficient to have an adverse impact on the environment?

—*Bioaccumulative Chemicals of Concern.* Does the discharge have the potential to contain bioaccumulative chemicals of concern in amounts sufficient to have an adverse impact on the environment?

—*Nonindigenous Species.* Does the discharge have the potential to introduce viable nonindigenous aquatic species to new locations?

If the answer to any of the above questions was "yes," EPA and DOD determined that the discharge had a potential for adverse environmental effect.

EPA and DOD used sampling results or process knowledge to identify the potential presence and concentration of constituents in the discharge. Constituent concentrations in the discharge were compared to Federal criteria promulgated by EPA in its National Toxics Rule, 40 CFR 131.36 (57 FR 60848; Dec. 22, 1992 and 60 FR 22230; May 4, 1995), referred to in this preamble as "Federal criteria," and State water quality numeric criteria for the ten States with the most significant presence of Armed Forces vessels. These ten States are California, Connecticut, Florida, Georgia, Hawaii, New Jersey, South Carolina, Texas, Virginia, and Washington. Constituent concentrations in the discharge were compared against the most stringent of the Federal and ten States' criteria for that constituent. For almost all constituents, the State water quality criteria are more stringent than the Federal National Toxics Rule (NTR) criteria.

EPA and DOD used aquatic water quality criteria in this assessment because they are a measure of the level of water quality that provides for the protection and propagation of aquatic life.

EPA and DOD used saltwater aquatic life criteria for screening the discharges because most Armed Forces vessels operate in the brackish water of estuaries or bays, or in the marine environment off the coast or in open ocean, where the biology of the water body is dominated by saltwater aquatic life. Aquatic life criteria were used instead of human health criteria, which are related to consumption of fish and shellfish, because recreational activities such as fishing and swimming generally do not occur in the immediate vicinity of Armed Forces vessels.

Depending on the nature of the discharge, EPA and DOD compared discharge concentrations to either the acute or chronic criteria values. Where discharges are intermittent or occasional in nature, of relatively short duration (a few seconds to a few hours), and dissipate rapidly in the environment, constituent concentrations were compared to acute water quality criteria. Where discharges are of a longer duration or continuous and likely to result in concentrations in the environment that approach a steady state condition, the constituent concentrations were compared to chronic water quality criteria. Table 4–1 in the Technical Development Document lists the State criteria or Federal criteria used.

The initial screening process involved comparing the constituent concentrations in the undiluted discharge to the water quality criteria. For those discharges, such as cathodic protection, where the constituents diffuse from the exterior of a vessel or vessel component, EPA and DOD generally computed a concentration within a small mixing zone (a few inches to a few feet).

EPA and DOD further assessed those discharges that had constituents exceeding water quality criteria. EPA and DOD considered mass loadings, flow rates, the geographic location of the discharge, the manner in which the discharge occurs (e.g., continuous or intermittent), and in some cases, the effect of the dilution within a small mixing zone. The purpose of this further assessment was to determine whether the constituents are discharged with such a low frequency or in such small amounts that the resulting constituent mass loading has the potential to produce only minor or undetectable environmental effects, or whether the constituents are released in such a manner that dilution in a small mixing

zone quickly results in concentrations below water quality criteria. If so, EPA and DOD considered the chemical constituents of the discharge not to have the potential to adversely affect the environment.

In addition to chemical constituents, EPA and DOD assessed whether the discharges exceeded State thermal water quality criteria for the five States with the most significant presence of Armed Forces vessels. These States are California, Florida, Hawaii, Virginia, and Washington. Many discharges did not need a detailed assessment because they are discharged at ambient or only slightly elevated temperatures, or the volume or discharge rate is very low. EPA and DOD determined that six discharges are released at sufficiently high temperatures and volumes that further assessment was warranted to determine whether the discharge had the potential to cause an adverse thermal effect. These discharges are:

—Boiler Blowdown,
—Catapult Water Brake Tank And Post-Launch Retraction Exhaust,
—Catapult Wet Accumulator Discharge,
—Distillation And Reverse Osmosis Brine,
—Seawater Cooling Overboard Discharge, and
—Steam Condensate.

EPA and DOD modeled these discharges to determine the size of the mixing zone that would be needed for receiving waters to meet State thermal water quality criteria and compared this zone to State thermal mixing zone allowances. A more complete discussion of the models and procedures used for these assessments is provided in the Technical Development Document.

EPA and DOD reviewed each discharge to determine whether it contained bioaccumulative chemicals of concern, as identified in the Final Water Quality Guidance for the Great Lakes System (60 FR 15365; March 23, 1995). This guidance contains a list of bioaccumulative chemicals of concern identified after scientific study, in a process subjected to public notice and comment, designed to support a regionally uniform set of standards applicable to the waters of the Great Lakes. Table 4–1 of the Technical Development Document lists these bioaccumulative chemicals of concern. In every case where the presence of a bioaccumulative chemical of concern was confirmed in a discharge, EPA and DOD had already determined based on other information that it was reasonable and practicable to require control of that discharge.

EPA and DOD also assessed each discharge for its potential to transport viable living aquatic organisms between naturally isolated water bodies. Preventing the introduction of invasive nonindigenous aquatic species has been recognized as important in maintaining biodiversity, water quality, and the designated uses of water bodies. If the available data indicate that a discharge has a potential for transporting and then subsequently discharging viable aquatic organisms into waters of the U.S., then EPA and DOD considered the discharge to present a potential for causing adverse environmental effects from nonindigenous species introduction. In some cases EPA and DOD determined it was reasonable and practicable to require MPCDs to control a discharge even though information in the record indicates that the discharge has a low potential for adversely affecting the environment. For the chain locker effluent and sonar dome discharges, at least one class of Armed Forces vessel has a management practice or control technology already in place to control the environmental effects of the discharge. EPA and DOD considered the existence of a currently applied management practice or control technology to be sufficient indication that it was reasonable and practicable to require a MPCD. In other cases (non-oily machinery wastewater and photographic laboratory drains), analysis of whether the discharge had a potential to adversely affect the environment was inconclusive. However, EPA and DOD determined that it was reasonable and practicable to require an MPCD to mitigate possible adverse environmental effects from the discharge.

For each discharge that was determined to have the potential to adversely affect the environment, EPA and DOD conducted an initial evaluation of the practicability, operational impact, and economic cost of using a MPCD to control each discharge. EPA and DOD first determined whether a control technology or management practice is currently in place to control the discharge for environmental protection on any vessel type. The use of existing controls on a vessel was considered sufficient demonstration that at least one reasonable and practicable control is available for at least one vessel type. (This proposed Phase I UNDS rule does not address whether existing control technologies or management practices are adequate to mitigate potential adverse impacts. In Phase II of UNDS, EPA and DOD will promulgate MPCD performance standards for the discharges requiring control.) For discharges without any existing pollution controls, EPA and DOD analyzed potential pollution control options to determine whether it is reasonable and practicable to require the use of MPCDs. For every discharge that was found to have a potential to cause adverse environmental effects, EPA and DOD determined that it is reasonable and practicable to require a MPCD for at least one vessel type. The results of the MPCD assessments are presented in the Technical Development Document.

B. Peer Review

Peer review is a documented critical review of a scientific and technical work product. It is an in-depth assessment that is used to ensure that the final work product is technically sound. Peer reviews are conducted by qualified individuals who are independent of those who prepared the work product. For this proposed rule, reviewers were selected because of their technical expertise in assessing pollutant behavior in coastal and estuarine ecosystems, modeling pollutant concentrations, and predicting the effects of pollutant loadings on ambient water quality, sediments, and biota.

A technical report was prepared for each of the discharges covered by this proposed rule. These Nature of Discharge (NOD) reports include a discussion of how the discharge is generated, discharge volumes and frequencies, where the discharge occurs, chemical constituents present in the discharge, and relevant regulatory information or water quality criteria. The NOD reports also assess the potential for a discharge to cause an adverse environmental effect, and provide the process and environmental background information used in determining whether a particular discharge warrants control. NOD reports for each discharge are included as an appendix to the Technical Development Document.

NOD reports for five discharges were selected for peer review. For each of these discharges, EPA and DOD determined that it is not reasonable and practicable to require the use of MPCDs because they exhibit a low potential for causing adverse impacts on the marine environment. Peer reviewers were asked whether the data and process information presented in the NOD reports are sufficient to characterize the discharges; whether the analyses are appropriate for the discharges; and whether the conclusions regarding the discharges' potential for causing adverse environmental impacts are supported by

the information presented in the NOD reports.

Results of the peer review are compiled in the "Peer Review Comments Document for Nature of Discharge Reports" and are available for review in the rulemaking record. An initial assessment of the comments does not indicate any fundamental flaws in the methodology used by EPA and DOD to assess a discharge's potential to cause adverse impacts on the marine environment. EPA and DOD will address the peer review comments prior to promulgating the final Phase I rule.

C. Discharges Requiring the Use of a MPCD

For the reasons discussed below, EPA and DOD have initially determined that it is reasonable and practicable to require the use of a MPCD to control 25 discharges from vessels of the Armed Forces. Except where noted, the pollutant characteristics of these discharges indicate a potential to cause adverse environmental impacts. Table 10 lists those discharges for which EPA and DOD determined it was reasonable and practicable to require the use of a MCPD, and identifies the characteristics of each discharge that formed the basis of the determination. The terms "Chemical Constituents," "Thermal Pollution," "Bioaccumulative Chemicals of Concern" and "Nonindigenous Species" refer to the four questions described in section V.A.

TABLE 10.—DISCHARGES REQUIRING THE USE OF A MPCD AND THE BASIS FOR THE DETERMINATION.[a]

Discharge	Chemical constituents			Thermal pollution	Bioaccumulative chemicals of concern	Nonindigenous species	Other
	Oil	Metals	Organic Chemicals				
Aqueous Film-Forming Foam							[b]
Catapult Water Brake Tank Discharge & Post-Launch Retraction Exhaust	X						
Chain Locker Effluent							[c]
Clean Ballast						X	
Compensated Fuel Ballast	X						
Controllable Pitch Propeller Hydraulic Fluid	X						
Deck Runoff	X						
Dirty Ballast	X						
Distillation and Reverse Osmosis Brine		X					
Elevator Pit Overboard Discharge	X						
Firemain Systems		X					
Gas Turbine Washdown Discharge	X		X				
Graywater			X				
Hull Coating Leachate		X					
Motor Gasoline Compensated Overboard Discharge	X					X	
Non-oily Machinery Wastewater							[d]
Photographic Laboratory Drains							[d]
Seawater Cooling Overboard Discharge		X		X			
Seawater Piping Biofouling Prevention							[e]
Small Boat Engine Wet Exhaust			X				
Sonar Dome Discharge							[c]
Submarine Bilge Water	X						
Surface Vessel Bilge Water/Oil-Water Separator Discharges	X						
Underwater Ship Husbandry		X				X	
Welldeck Discharges	X						

Notes:

[a] This table provides a simplified overview of the basis for requiring the use of MPCDs for particular discharges. It is not intended to fully characterize the discharges or describe the analyses leading to the decision. More complete characterizations of the discharges and the analyses leading to the decisions are presented in section V.C. and in the appendices of the Technical Development Document.

[b] Discharge may produce floating foam in violation of some State water quality standards.

[c] Discharge was determined to have a low potential to adversely affect the environment, but an existing MPCD is in place on at least one type of vessel to reduce this low potential even further.

[d] No conclusion was drawn on the potential of the discharge to adversely affect the environment, but EPA and DOD determined a MPCD is reasonable and practicable to mitigate any possible adverse effects.

[e] Chlorine and chlorination byproducts.

For this Phase I proposed rule, EPA and DOD identified at least one potential MPCD control option for each discharge that could mitigate the environmental impacts of the discharge from at least one class of Armed Forces vessel. In Phase II of the UNDS rulemaking, EPA and DOD will perform a more detailed assessment of MPCD control options. EPA and DOD will consider options that are being evaluated as part of research and development programs in addition to those that are currently available. EPA and DOD will evaluate MPCDs for all classes of vessels and promulgate the specific performance standards for each MPCD that are reasonable and practicable for that class of vessel. In developing specific MPCD performance standards, EPA and DOD will consider the same factors considered in Phase I. The Phase II rule may distinguish among vessel types and sizes, between new and existing vessels, and may waive the applicability of Phase II standards as necessary or appropriate to a particular type or age of vessel (see CWA section 312(n)(3)(B)).

The definition of a marine pollution control device, or MPCD, as used in this proposed rule is a control technology or a management practice that can reasonably and practicably be installed or otherwise used on a vessel of the Armed Forces to receive, retain, treat, control or discharge a discharge incidental to the normal operation of the vessel.

The discussions below provide a brief description of the discharges and the systems that produce the discharges EPA and DOD propose to control. The discussions highlight the most significant constituents released to the environment, and describes the current practice, if any, to prevent or minimize environmental effects. Because of the diversity of vessel types and designs, these control practices are usually not uniformly applied to all vessels generating the discharge. In addition, these controls do not necessarily represent the only control options available. The discharges are described in more detail in Appendix A of the Technical Development Document.

1. Aqueous Film Forming Foam (AFFF)

This discharge consists of a mixture of seawater and firefighting foam discharged during training, testing, and maintenance operations. Aqueous film forming foam (AFFF) is the primary firefighting agent used to extinguish flammable liquid fires on surface ships of the Armed Forces. AFFF is stored on vessels as a concentrated liquid that is mixed with seawater to create the diluted solution (3–6% AFFF) that is sprayed as a foam on the fire. The solution is applied with both fire hoses and fixed sprinkler devices. During planned maintenance of firefighting systems, system testing and inspections, and flight deck certifications, the seawater/foam solution is discharged either directly overboard from hoses, or onto flight decks and then subsequently washed overboard. These discharges are considered incidental to the normal operation of Armed Forces vessels. Discharges of AFFF that occur during firefighting or other shipboard emergency situations are not incidental to normal operations and are not subject to the requirements of this proposed rule.

AFFF is discharged from all Navy ships, those MSC ships capable of supporting helicopter operations, and Coast Guard cutters, icebreakers, and tugs. AFFF discharges generally occur at distances greater than 12 n.m. from shore, and in all cases more than 3 n.m. from shore due to existing Armed Forces operating instructions. The constituents of AFFF include water, bis(2-ethylhexyl)phthalate, 2-(2-butoxyethoxy)-ethanol, urea, alkyl sulfate salts, amphoteric fluoroalkylamide derivative, perfluoroalkyl sulfonate salts, triethanolamine, and methyl-1H-benzotriazole. Because the water used to mix with the AFFF concentrate comes from the vessel's firemain, the discharge will also include nitrogen (measured as total Kjeldahl nitrogen), copper, nickel, and iron from the firemain piping.

The AFFF discharge produces an aqueous foam intended to cool and smother fires. Water quality criteria for some States include narrative requirements for waters to be free of floating materials attributable to domestic, industrial, or other controllable sources, or include narrative criteria prohibiting discharges of foam. AFFF discharges in State waters would be expected to result in violating such narrative criteria for foam or floating materials. At present, the Navy uses certain management practices to control these discharges, including a self-imposed prohibition on AFFF discharges in coastal waters by most Armed Forces vessels. These management practices to control discharges of AFFF demonstrate the availability of a MPCD to mitigate the potential adverse impacts that could result from the discharge of AFFF. Therefore, EPA and DOD have determined that it is reasonable and practicable to require use of a MPCD for this discharge.

AFFF discharges occur beyond 3 n.m. but within 12 n.m. from shore infrequently and in relatively small volumes, and the diluted (3–6%) AFFF solution is not believed to exhibit significant toxic effects. Further, any discharges that do occur take place while the vessel is underway and will be dispersed in the turbulence of the vessel wake.

2. Catapult Water Brake Tank and Post-Launch Retraction Exhaust

This intermittent discharge is the oily water skimmed from the catapult water brake tank, and the condensed steam discharged when the catapult is retracted. Catapult water brakes are used to stop the forward movement of the steam-propelled catapults used to launch aircraft from Navy aircraft carriers. The catapult water brake system includes a water brake tank that contains freshwater, and water brake cylinders . During flight operations, water from the catapult water brake tank is continuously injected into the catapult water brake cylinders. At the end of a launch stroke, spears located on the front of the catapult pistons enter the water brake cylinders. The water in the cylinders builds pressure ahead of the spears, cushioning the catapult pistons to a stop. The catapult brake water is continuously circulated between the catapult water brake tank and the catapult water brake cylinders.

Prior to the launch stroke, lubricating oil is applied to the catapult cylinder through which the catapult piston and piston spear are driven. As the catapult piston is driven forward during the launch stroke, the catapult piston and spear carries lubricating oil from the catapult cylinder into the water brake cylinder at the end of the stroke. Over the course of multiple launchings, the oil and water circulating through the water brake cylinder and tank leads to the formation of an oil layer in the water brake tank. The oil layer can adversely affect water brake operation by interfering with the cooling of water in the water brake tank. To prevent excessive heat buildup in the tank, the oil is periodically skimmed off and discharged overboard. Additionally, as the catapult piston is retracted following the launch, expended steam from the catapult launch stroke and some residual lubricating oil from the catapult cylinder walls are discharged below the waterline through a separate exhaust pipe.

Only aircraft carriers generate this discharge. Catapult operations during normal flight operations generate both the water brake tank discharge and the post-launch retraction exhaust; however, flight operations take place beyond 12 n.m. from shore. Catapult testing which occurs within 12 n.m. always discharges the post-launch retraction exhaust, but usually does not add sufficient quantities of oil to the water brake tank to require skimming.

The water brake tank is used within 12 n.m. for dead-load catapult shots when testing catapults on new aircraft carriers, and following major drydock overhauls or major catapult modifications. This testing requires a minimum of 60 dead-load shots each and may occur over a period of several days within 12 n.m. from shore. New carrier testing occurs only once, and major overhauls generally occur on 5- to 7-year cycles in conjunction with drydocking. Major modifications to catapults may occur during an overhaul or pierside and are also infrequent events. Carriers also routinely perform no-load shots when leaving port. The number of no-load shots conducted when leaving port, however, usually do not add enough lubricating oil to the water brake tank to require skimming the oil while the ship is within 12 n.m. from shore.

The water brake tank and post-launch retraction exhaust discharges include lubricating oil, a limited thermal load associated with the heated oil and water (or condensed steam, in the case of the post-launch retraction exhaust), nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen), and metals such as copper and nickel from the piping systems. EPA and DOD analyzed the thermal effects of this discharge and concluded they were unlikely to exceed thermal mixing zone criteria in the States where aircraft carriers most frequently operate. The post-launch retraction exhaust discharge can contain oil, copper, lead, nickel, ammonia, bis(2-ethylhexyl)phthalate, phosphorus, and benzidine in concentrations exceeding State acute water quality criteria. The post-launch retraction exhaust discharge can also contain nitrogen in concentrations exceeding the most stringent State water quality criteria.

The Navy has imposed operational controls limiting the amount of oil applied to the catapult cylinder during the launch stroke, which directly affects the amount of oil that is subsequently discharged from the water brake tank or during the post-launch retraction exhaust. The Navy has also established requirements dictating when catapult testing is required within 12 n.m. from shore. These operational constraints minimize discharges of oil from the water brake tank and post-launch retraction exhaust in coastal waters. These existing management practices demonstrate the availability of controls for this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require use of a MPCD to mitigate potential adverse environmental impacts from this discharge.

3. Chain Locker Effluent

This discharge consists of accumulated precipitation and seawater that is occasionally emptied from the compartment used to store the vessel's anchor chain.

The chain locker is a compartment used to store anchor chain aboard vessels. Navy policy requires that the anchor chain, appendages, and anchor on Navy surface vessels be washed down with seawater during retrieval to prevent onboard accumulation of sediment. During washdown, some water adheres to the chain and is brought into the chain locker as the chain is stored. The chain locker sump accumulates the residual water and debris that drains from the chain following anchor chain washdown and retrieval, or washes into the chain locker during heavy weather. Water accumulating in the chain locker sump is removed by a drainage eductor powered by the shipboard firemain system.

All Armed Forces vessels housing their anchor chains in lockers, except submarines, can generate this discharge. Since submarine chain lockers are always open to the sea, water is always present in the chain locker and there is no "collected" water to be discharged as effluent. Navy policy prohibits discharging chain locker effluent within 12 n.m. Other vessels of the Armed Forces are currently authorized to discharge chain locker effluent within 12 n.m.; however, most Armed Forces vessels also observe the 12 n.m. discharge prohibition. A recent review of practices on several Navy ships found no water accumulation in the chain locker sump, and the ships' crew confirmed that discharges of chain locker effluent occur outside 12 n.m.

In addition to water, materials collecting in the chain locker sump can include paint chips, rust, grease, and other debris. Chain locker effluent may contain organic and inorganic compounds associated with this debris, as well as metals from the sump and from sacrificial anodes installed in the chain locker to provide cathodic protection. If the anchor chain washdown is not performed and the chain locker effluent is subsequently discharged in a different port, the discharge could potentially transport nonindigenous species. Discharge volume will vary depending upon the frequency of anchoring operations, the number of anchors used, and the depth of water (which determines the amount of chain that will be lowered into the water).

Given the manner in which water collects in the chain locker sump and remains there for extended periods of time, it is possible that the discharge could contain elevated levels of metals at concentrations exceeding State water quality criteria. However, given the small volume of the discharge and the infrequency of anchoring operations, it is unlikely that discharges of chain locker effluent would adversely impact the environment. Nevertheless, the Navy and other Armed Forces already have management practices in place for most vessels requiring anchors and anchor chains to be washed down with seawater during retrieval, and prohibiting the discharge of chain locker effluent until beyond 12 n.m. from shore. DOD has chosen as a matter of policy to continue prohibiting the discharge of chain locker effluent within 12 n.m. from shore. This prohibition, while not considered necessary to mitigate an existing or potential adverse impact, will eliminate the possibility of discharging into coastal waters any metals, other contaminants, or nonindigenous aquatic species that may have accumulated in the chain locker sump. EPA and DOD have determined that the existing management practices demonstrate that it is reasonable and practicable to require use of a MPCD for chain locker effluent.

4. Clean Ballast

This discharge is composed of the seawater taken into, and discharged from, dedicated ballast tanks used to maintain the stability of the vessel and to adjust the buoyancy of submarines.

Many types of Armed Forces vessels store clean ballast in dedicated tanks in order to adjust a vessel's draft, buoyancy, trim, and list. Clean ballast may consist of seawater taken directly onboard into the ballast tanks or seawater received from the vessel's firemain system. Clean ballast differs from "dirty ballast" and "compensated ballast" discharges (described below) in that clean ballast is not stored in tanks that are also used to hold fuel. Many surface vessels introduce clean ballast into tanks to replace the weight of off-loaded cargo or expended fuel to improve vessel stability while navigating on the high seas. Amphibious ships also flood clean ballast tanks during landing craft operations to lower the ship's stern, allowing the well deck to be accessed. Submarines introduce clean ballast into their main ballast tanks when submerging, and introduce clean ballast into their variable ballast tanks to make minor adjustments to buoyancy, trim, and list while operating submerged or surfaced. The discharge occurs when fuel or cargo is taken on and the ballast is no longer needed, when amphibious operations are concluded and the vessel is returned to its normal operating draft, when submarines surface, or when submarines make some operational adjustments in trim or list while submerged or surfaced.

Clean ballast discharges are intermittent and can occur at any distance from shore, including within 12 n.m. Constituents of clean ballast can include materials from tank coatings (e.g., epoxy), chemical additives (e.g., flocculant chemicals or rust inhibitors), and metals from piping systems and sacrificial anodes used to control corrosion. Based on analytical data for firemain system discharges, metals expected to be present in the discharge include copper, nickel, and zinc. These data indicate that the pollutant

concentrations in the discharge may exceed State water quality criteria.

Previous studies have documented the potential of ballasting operations to transfer nonindigenous aquatic species into receiving waters. Ballast water potentially contains living microorganisms, plants, and animals that are native to the location where the water was pumped aboard. When the ballast water is transported to another port or coastal area and discharged, the surviving organisms are released and have the potential to invade and impact the local ecosystem.

The Navy, MSC, and Coast Guard either currently implement or are in the process of approving a ballast water management policy requiring open-ocean ballast water exchange, based on guidelines established by the International Maritime Organization (Guidelines for Preventing the Introduction of Unwanted Aquatic Organisms and Pathogens from Ships' Ballast Water and Sediment Discharge, 10 May 1995). These management practices demonstrate the availability of controls to mitigate the potential adverse environmental impacts from this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require a MPCD for discharges of clean ballast.

5. Compensated Fuel Ballast

This intermittent discharge is composed of the seawater taken into, and discharged from, tanks designed to hold both fuel and ballast water to maintain the stability of the vessel.

Compensated fuel ballast systems are configured as a series of fuel tanks that automatically draw in seawater to replace fuel as it is consumed. Keeping the fuel tanks full in this manner enhances the stability of a vessel by using the weight of the seawater to compensate for the mass of ballast lost through fuel consumption. During refueling, fuel displaces the seawater, and the displaced seawater is discharged overboard.

Compensated fuel ballast is discharged by approximately 165 Navy surface vessels and submarines. Surface ships with compensated fuel ballast systems discharge directly to surface waters each time they refuel. Surface vessels are refueled both inport and at sea. All at-sea refueling is accomplished beyond 12 n.m. from shore. For submarines, refueling occurs only in port and the compensated ballast is transferred to shore facilities for treatment and disposal.

The compensated fuel ballast discharge can contain acrolein, phosphorus, thallium, oil (and its constituents, such as benzene, phenol, and toluene), copper, mercury (a bioaccumulative chemical of concern), nickel, silver, and zinc. Concentrations of acrolein, benzene, copper, nickel, silver, and zinc can exceed acute Federal criteria or State acute water quality criteria. The compensated fuel ballast discharge can also contain nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen) in concentrations exceeding the most stringent State water quality criteria.

To reduce the discharge of fuel in compensated fuel ballast discharge, the Navy has instituted operational guidelines intended to reduce the potential for overfilling tanks or discharging excessive amounts of fuel entrained in the displaced compensating water while refueling surface vessels. These guidelines limit the amount of fuel that can be taken on in port (i.e., to prevent "topping off" the fuel tanks) and establish maximum allowable rates for inport refueling. Additionally, submarines transfer all compensated fuel ballast water to shore facilities when refueling diesel fuel oil tanks. These operational controls for surface vessel refueling and the practice of transferring the discharge to shore for submarines demonstrates the availability of MPCDs to mitigate potential adverse environmental impacts; therefore, EPA and DOD have determined it is reasonable and practicable to require the use of a MPCD for compensated fuel ballast.

6. Controllable Pitch Propeller Hydraulic Fluid

This discharge is the hydraulic fluid that discharges into the surrounding seawater from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers.

Controllable pitch propellers (CPP) are used to control a vessel's speed or direction while maintaining constant propulsion plant output (i.e., varying the pitch, or "bite," of the propeller blades allows the propulsion shaft to remain turning at a constant speed). CPP blade pitch is controlled hydraulically through a system of pumps, pistons, and gears. Hydraulic oil may be released from CPP assemblies under three conditions: leakage through CPP seals, releases during underwater CPP repair and maintenance activities, or releases from equipment used for CPP blade replacement.

Over 200 Armed Forces vessels have CPP systems. Leakage through CPP seals can occur within 12 n.m., but seal leakage is more likely to occur while the vessel is underway than while pierside or at anchor because the CPP system operates under higher pressure when a vessel is underway. Blade replacement occurs inport on an as-needed basis when dry-docking is unavailable or impractical, resulting in some discharge of hydraulic oil. Approximately 30 blade replacements and blade port cover removals (for maintenance) are conducted annually, fleetwide.

CPP assemblies are designed to operate at 400 psi without leaking. Typical pressures while pierside range from 6 to 8 psi. CPP seals are designed to last five to seven years, which is the longest period between dry-dock cycles, and are inspected quarterly to check for damage or excessive wear. Because of the hub design and the frequent CPP seal inspections, leaks of hydraulic oil from CPP hubs are expected to be negligible. During the procedure for CPP blade replacement, however, hydraulic oil is released to the environment from tools and other equipment. In addition, hydraulic oil could also leak from the CPP hub during a CPP blade port cover removal.

The Navy's repair procedures impose certain requirements during blade replacement and blade port cover removal to minimize the amount of hydraulic oil released to the extent possible. In addition, booms are placed around the aft end of the vessel to contain possible oil release during these procedures. Nevertheless, EPA and DOD believe that the amount of hydraulic oil released during underwater CPP maintenance could create an oil sheen and exceed State water quality criteria. Constituents of the discharge could include paraffins, olefins, and metals such as copper, aluminum, tin, nickel, and lead. Metal concentrations are expected to be low because hydraulic oil is not corrosive, and the hydraulic oil is continually filtered to protect against system failures.

EPA and DOD have determined that pollution controls are necessary to mitigate the potential adverse environmental impacts that could result from releases of hydraulic oil during underwater maintenance on controllable pitch propellers. The existing repair procedures and the staging of containment booms and oil skimming equipment to capture released oil demonstrate the availability of MPCDs (i.e., best management practices) for this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require MPCDs to control discharges of CPP hydraulic fluid.

17. Deck Runoff

Deck runoff is an intermittent discharge generated when water from precipitation, freshwater washdowns, or seawater falls on the exposed portion of a vessel such as a weather deck or flight deck. This water is discharged overboard through deck openings and washes overboard any residues that may be present on the deck surface. The runoff drains overboard to receiving waters through numerous deck openings. All vessels of the Armed Forces produce deck runoff, and this discharge occurs whenever the deck surface is exposed to water, both within and beyond 12 n.m.

Contaminants present on the deck originate from topside equipment components and the many varied activities that take place on the deck. This discharge can include residues of gasoline, diesel fuel, Naval distillate fuel, grease, hydraulic fluid, soot, dirt, paint, glycol, cleaners such as sodium metasilicates, and solvents. A number of metal and organic pollutants may be present in the discharge, including silver, cadmium, chromium, copper, nickel, lead, benzene, ethylbenzene, toluene, xylene, polycyclic aromatic hydrocarbons, and phenol. Mass loadings and concentrations of these constituents will vary with a number of factors including ship operations, deck washdown frequency, and the frequency, duration, and intensity of precipitation events.

Based on the results from limited sampling from catapult troughs (a component of runoff from aircraft carrier flight decks), oil and grease, phenols, chromium, cadmium, nickel, and lead could be present in this discharge at levels exceeding acute Federal criteria and State acute water quality criteria. If not properly controlled, oil collecting in catapult troughs can cause deck runoff from aircraft carrier flight decks to create an oil sheen on the surface of the receiving water, which would violate State water quality criteria. Armed Forces vessels already institute certain management practices intended to reduce the amount of pollutants discharged in deck runoff, including keeping weather decks cleared of debris, immediately mopping up and cleaning spills and residues, and engaging in spill prevention practices. These practices demonstrate the availability of controls to mitigate adverse impacts from deck runoff. Therefore, EPA and DOD have determined it is reasonable and practicable to require a MPCD for deck runoff.

8. Dirty Ballast

This intermittent discharge is composed of the seawater taken into, and discharged from, empty fuel tanks to maintain the stability of the vessel. The seawater is brought into these tanks for the purpose of improving the stability of a vessel during rough sea conditions. Prior to taking on the seawater as ballast, fuel in the tank to be ballasted is transferred to another fuel tank or holding tank to prevent contaminating the fuel with seawater. Some residual fuel remains in the tank and mixes with the seawater to form dirty ballast. Dirty ballast systems are configured differently from compensated ballast and clean ballast systems. Compensated ballast systems continuously replace fuel with seawater in a system of tanks as the fuel is consumed. Clean ballast systems have tanks that carry only ballast water and are never in contact with fuel. In a dirty ballast system, water is added to a fuel tank after most of the fuel is removed.

Thirty Coast Guard vessels generate dirty ballast as a discharge incidental to normal vessel operations. These Coast Guard vessels do so because their size and design do not allow for a sufficient volume of clean ballast tanks. The larger of these vessels discharge the dirty ballast at distances beyond 12 n.m. from shore, while the smaller vessels are cutters that discharge the dirty ballast between 3 and 12 n.m. from shore. Coast Guard vessels monitor the dirty ballast discharge with an oil content monitor. If the dirty ballast exceeds 15 ppm oil, it is treated in an oil-water separator prior to discharge.

Expected constituents of dirty ballast are Naval distillate fuel or aviation fuel. Based on sampling results for compensated fuel ballast, which is expected to have similar constituents to dirty ballast, this discharge can contain oil (and its constituents such as benzene and toluene); biocidal fuel additives; metals such as copper, mercury (a bioaccumulative chemical of concern), nickel, silver, and zinc; and the pollutants acrolein, nitrogen (in the form of ammonia and total Kjeldahl nitrogen), and phosphorus.

Uncontrolled discharges of dirty ballast would be expected to exceed acute Federal criteria or State acute water quality criteria for oil, benzene, phenol, copper, nickel, silver, and zinc. Concentrations of nitrogen would be expected to exceed the most stringent State water quality criteria. The use of oil content monitors and oil-water separators to reduce the concentration of oil (and associated constituents) demonstrates the availability of MPCDs to control this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require the use of MPCDs to control discharges of dirty ballast.

9. Distillation and Reverse Osmosis Brine

This intermittent discharge is the concentrated seawater (brine) produced as a byproduct of the processes used to generate freshwater from seawater.

Distillation and reverse osmosis plants are two types of water purification systems that generate freshwater from seawater for a variety of shipboard applications, including potable water for drinking and hotel services, and high-purity feedwater for boilers. Distillation plants boil seawater, and the resulting steam is condensed into high-purity distilled water. The remaining seawater concentrate, or "brine," that is not evaporated is discharged overboard. Reverse osmosis systems separate freshwater from seawater using semi-permeable membranes as a physical barrier, allowing a portion of the seawater to pass through the membrane as freshwater and concentrating the suspended and dissolved constituents in a saltwater brine that is subsequently discharged overboard.

Distillation or reverse osmosis systems are installed on approximately 540 Armed Forces vessels. This discharge can occur in port, while transiting to or from port, or while operating anywhere at sea (including within 12 n.m.). Distillation plants on steam-powered vessels may be operated to produce boiler feedwater any time a vessel's boilers are operating; however, operational policy limits its use in port for producing potable water because of the increased risk of biofouling from the water in harbors and the reduced demand for potable water. MSC steam-powered vessels typically operate one evaporator while in port to produce boiler feedwater; most diesel and gas-turbine powered MSC vessels do not operate water purification systems within 12 n.m.

Pollutants detected in distillation and reverse osmosis brine include copper, iron, lead, nickel, selenium, and zinc. The sampling data indicate that copper, lead, nickel and iron can exceed acute Federal criteria and State acute water quality criteria. The distillation and reverse osmosis brine discharge can also contain nitrogen (in the form of ammonia) and phosphorus in concentrations exceeding the most stringent State water quality criteria. The mass loadings of copper and iron are estimated to be significant. Thermal

effects modeling of distillation plant discharges indicates that the thermal plume does not exceed State water quality criteria.

Review of existing practices indicate that certain operational controls limiting the use of distillation plants and reverse osmosis units can reduce the potential for this discharge to cause adverse environmental impacts in some instances. Additionally, it appears that, for some vessels, reverse osmosis units may present an acceptable alternative to the use of distillation plants. Reverse osmosis units discharge brines are expected to contain lower concentrations of metals because these systems have non-metallic membranes and ambient operating temperatures, resulting in less system corrosion. Further analysis is necessary before determining whether distillation plants should be replaced by reverse osmosis units. Nevertheless, existing operational practices for distillation and reverse osmosis plants and the availability of reverse osmosis units to replace distillation units on some vessels demonstrates the availability of MPCDs to reduce the effects of this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require MPCD controls for discharges of distillation plant and reverse osmosis brines.

10. Elevator Pit Effluent

This discharge is the liquid that accumulates in, and is occasionally discharged from, the sumps of elevator wells on vessels. Most large surface ships have at least one type of elevator used to transport supplies, equipment, and personnel between different decks of the vessel. These elevators generally can be classified as either a closed design in which the elevator operates in a shaft, or an open design used to move aircraft between decks. Elevators operating in a shaft are similar to the conventional design seen in many buildings. For these elevators, a sump is located in the elevator pit to collect liquids entering the elevator and shaft areas. Deck runoff and elevator equipment maintenance activities are the primary sources of liquids entering the sump. On some vessels, the elevator sump is equipped with a drain to direct liquid wastes overboard. On others, piping is installed that allows an eductor to pump the pit effluent overboard. However, most vessels collect and containerize the pit effluent for disposal onshore or process it along with their bilgewater.

The elevators used on aircraft carriers to move aircraft and helicopters from one deck to another are an open design (i.e., there is no elevator shaft). The elevator platform is supported by cables and pulleys, and it operates on either the port or starboard side of the ship away from the hull. Unlike elevators with pits, the aircraft elevators are exposed to the water below and there are no systems in place for collecting liquid wastes.

Coast Guard, Army and Air Force vessels do not have elevators and therefore do not produce this discharge. The discharge of elevator pit effluent may occur at any location, within or beyond 12 n.m. from shore. Constituents in elevator pit effluent are likely to include grease, lubricating oil, fuel, hydraulic fluid, cleaning solvents, dirt, paint chips, aqueous film forming foam, glycol, and sodium metasilicate. The discharge can also contain nitrogen (measured as total Kjeldahl nitrogen) and metals from firemain water used to operate eductors draining the elevator pit.

The concentrations of copper, nickel, and bis(2-ethylhexyl)phthalate in firemain water (discussed below in section V.C.11) may exceed acute Federal criteria or State acute water quality criteria. The elevator pit effluent discharge can also contain nitrogen in concentrations exceeding the most stringent State water quality criteria. Constituent concentrations and mass loadings vary among ship classes depending on the frequency of elevator use, the size of the elevator openings, the amount and concentration of deck runoff, and the frequency of elevator equipment maintenance activities. Material accumulated in elevator pits is either collected for disposal onshore or directed to the bilgewater system for treatment through an oil-water separator prior to discharge. These existing practices demonstrate the availability of controls to reduce the potential for this discharge to cause adverse impacts on the environment. Therefore, EPA and DOD have determined that it is reasonable and practicable to require MPCDs for elevator pit effluent.

11. Firemain Systems

This discharge is the seawater pumped through the firemain system for firemain testing, maintenance, and training, and to supply water for the operation of certain vessel systems.

Firemain systems distribute seawater for firefighting and other services aboard ship. Firemain water is provided for firefighting through fire hose stations, sprinkler systems, and foam proportioners, which inject aqueous film forming foam (AFFF) into firemain water for distribution over flammable liquid spills or fire. Firemain water is also directed to other services including ballast systems, machinery cooling, lubrication, and anchor chain washdown. Discharges of firemain water incidental to normal vessel operations include anchor chain washdown, firemain testing, various maintenance and training activities, bypass flow from the firemain pumps to prevent overheating, and cooling of auxiliary machinery equipment (e.g., refrigeration plants). UNDS does not apply to discharges of firemain water that occur during firefighting or other shipboard emergency situations because they are not incidental to the normal operation of a vessel.

Firemain systems aboard Armed Forces vessels are classified as either wet or dry. Wet firemain systems are continuously charged with water and pressurized so that the system is available to provide water upon demand. Dry firemains are not continuously charged with water, and consequently do not supply water upon demand. Dry firemain systems are periodically tested and are pressurized during maintenance or training exercises, or during actual emergencies.

With the exception of small boats and craft, all Armed Forces vessels use firemain systems. All Navy surface ships and some MSC vessels use wet firemain systems. Submarines and all Army and Coast Guard vessels use dry firemains. Firemain system discharges occur both within and beyond 12 n.m. from shore. Flow rates depend upon the type, number, and operating time of the equipment and systems using water from the firemain system.

Samples were collected from three vessels with wet firemain systems and analyzed to determine the constituents present. Because of longer contact times between seawater and the piping in wet firemains, and the use of zinc anodes in some seachests and heat exchangers to control corrosion, pollutant concentrations in wet firemains are expected to be higher than those in dry firemain systems. Pollutants detected in the firemain discharge include nitrogen (measured as total Kjeldahl nitrogen), copper, nickel, iron, zinc, and bis(2-ethylhexyl)phthalate. The concentrations of iron exceeded the most stringent State chronic water quality criteria. Copper, nickel, and bis(2-ethylhexyl)phthalate concentrations exceeded both the chronic Federal criteria and State chronic water quality criteria. The concentrations of nitrogen exceeded the most stringent State water quality criteria. These concentrations contribute to a significant total mass loading in the discharge due to the large volume of

water discharged from wet firemain systems. Circulation through heat exchangers to cool auxiliary machinery increases the temperature of the firemain water, but the resulting thermal effects do not exceed State mixing zone criteria.

Firemain systems have a low potential for transporting nonindigenous aquatic species, primarily because the systems do not transport large volumes of water over great distances. In addition, stagnant portions of the firemain tend to develop anaerobic conditions which are inhospitable to most marine organisms.

EPA and DOD believe that dry firemain systems may offer one means for reducing the total mass of pollutants discharged from firemain systems. The use of dry firemains for Coast Guard vessels demonstrates that, for at least some types of vessels, this option may be an available control mechanism. Another possible MPCD option for achieving pollutant reductions is the use of alternative piping systems (i.e., different metallurgy) that provide lower rates of pipe wall corrosion and erosion. The use of dry firemains and the potential offered by alternative piping systems demonstrates the availability of controls to mitigate potential adverse impacts on the environment. Therefore, EPA and DOD have determined that it is reasonable and practicable to require the use of a MPCD for firemain systems.

12. Gas Turbine Water Wash

Gas turbine water wash consists of water periodically discharged while cleaning internal and external components of propulsion and auxiliary gas turbines. Approximately 155 Armed Forces vessels use gas turbines for either propulsion or auxiliary power generation. Gas turbine water wash is generated within 12 n.m. and varies by the type of gas turbine and the amount of time it is operated. Because the drain collecting system is limited in size, discharges may occur within 12 n.m. On most gas turbine Navy and MSC ships, gas turbine water wash is collected in a dedicated collection tank and is not discharged overboard within 12 n.m. On ships without a dedicated collection tank, this discharge is released as a component of deck runoff, welldeck discharges, or bilgewater.

Expected constituents of gas turbine water wash are synthetic lubricating oil, grease, solvent-based cleaning products, hydrocarbon combustion by-products, salts from the marine environment, and metals leached from metallic turbine surfaces. The concentration of naphthalene (from solvents) in the discharge is expected to exceed acute Federal criteria and State acute water quality criteria. Copper, nickel, and cadmium are also expected to be present in the discharge, but at concentrations below the acute Federal criteria and State acute water quality criteria. To limit the impacts of gas turbine water wash discharge while operating in coastal areas, most vessels direct the discharge to a dedicated holding tank for shore disposal. This containment procedure demonstrates the availability of controls for this discharge. Therefore, EPA and DOD have determined that it is reasonable and practicable to require the use of a MPCD for gas turbine water wash.

13. Graywater

Section 312(a)(11) of the CWA defines graywater as "galley, bath, and shower water." Recognizing the physical constraints of Armed Forces vessels and the manner in which wastewater is handled on these vessels, graywater is more broadly defined for the purposes of UNDS. For the purposes of this proposed regulation, the graywater discharge consists of graywater as defined in CWA section 312(a)(11), as well as drainage from laundries, interior deck drains, water fountains and miscellaneous shop sinks. All ships, and some small boats, of the Armed Forces generate graywater on an intermittent basis. Graywater discharges occur both within and beyond 12 n.m. from shore. Most Armed Forces vessels collect graywater and transfer it to shore treatment facilities while pierside. Some vessel types, however, have minimal or no graywater collection or holding capability and discharge the graywater directly overboard while pierside.

Less than half of all graywater discharged within 12 n.m. occurs pierside from vessels lacking graywater collection holding capability. The remainder of the discharge in coastal waters occurs during transit within 12 n.m. from shore. Present in the discharge are several priority pollutants including mercury, which is a known bioaccumulative chemical of concern. Copper, lead, mercury, nickel, silver, and zinc were detected in concentrations that exceed acute Federal criteria and State acute water quality criteria. Graywater also contains conventional and nonconventional pollutants, such as total suspended solids, biochemical oxygen demand, chemical oxygen demand, oil, grease, ammonia, nitrogen, and phosphates. Due to the large volume of graywater generated each year, the mass loadings of these constituents may be significant. The use of containment systems to transfer graywater to shore treatment facilities demonstrates the availability of controls to mitigate adverse impacts on the environment. Therefore, EPA and DOD have determined that it is reasonable and practicable to require a MPCD to control graywater discharges.

14. Hull Coating Leachate

This discharge consists of constituents that leach, dissolve, ablate, or erode from hull paints into the surrounding seawater.

Vessel hulls that are continuously exposed to seawater are typically coated with a base anti-corrosive coating covered by an anti-fouling coating. This coating system prevents corrosion of the underwater hull structure and, through either an ablative (eroding or dissolving) or non-ablative (leaching) action, releases antifouling compounds. These compounds inhibit the adhesion of biological growth to the hull surface.

The coatings on most vessels of the Armed Forces are either copper- or tributyl tin (TBT)-based, with copper-based ablative paints being the most predominant coating system. The Armed Forces have been phasing out the use of TBT paints and now it is found only on approximately 10–20 percent of small boats and craft with aluminum hulls. Small boats and craft that spend most of their time out of water typically do not receive an anti-corrosive or anti-fouling coating.

Hull coating leachate is generated continuously whenever a vessel hull is exposed to water, within and beyond 12 n.m. from shore. Priority pollutants expected to be present in this discharge include copper and zinc. TBT is also expected to be present in this discharge for those vessels with TBT paint. The release rate of the constituents in hull coating leachate varies with the type of paint used, water temperature, vessel speed, and the age of the coating. Using average release rates derived from laboratory tests, the wetted surface area of each vessel, and the number of days the vessel is located within 12 n.m., EPA and DOD estimated the mass of copper, zinc, and TBT released in the leachate and concluded that the discharge has the potential to cause an adverse environmental effect.

Annual releases of TBT are expected to decrease since TBT coatings are being phased out by DOD and the Coast Guard. Both DOD and the commercial industry have conducted research on the use of advanced antifouling coatings such as easy release coatings (e.g., silicone) that resist biofouling when the vessel is in motion and a critical speed is reached. The combination of phasing out TBT paints, the potential to establish limits on copper release rates for copper-based coating systems, and

the potential for alternative coating systems to reduce copper discharges demonstrates the availability of controls to mitigate potential environmental impacts from hull coating leachate. Thus, EPA and DOD determined that it is reasonable and practicable to require use of a MPCD for hull coating leachate.

15. Motor Gasoline Compensating Discharge

This intermittent discharge consists of seawater taken into, and discharged from, motor gasoline tanks. Motor gasoline (MOGAS) is used to operate vehicles and equipment stored or transported on some Navy amphibious vessels. The MOGAS is stored in a compensating fuel tank system in which seawater is automatically added to fuel tanks as the gasoline is consumed in order to eliminate free space where vapors could accumulate. During refueling, gasoline displaces seawater from the tanks, and the displaced seawater is discharged directly overboard. A compensating system is used for MOGAS to provide supply pressure for the gasoline and to keep the tank full to prevent potentially explosive gasoline vapors from forming.

The Navy has two classes of vessels with MOGAS storage tanks. Eleven of these vessels are homeported in the U.S. Based on operational practices, vessels with MOGAS storage tanks typically refuel once per year, and the refuelings are always conducted in port. Therefore, all discharges from the MOGAS compensating system occur in port.

Seawater in the MOGAS compensating system is in contact with the gasoline for long periods of time. MOGAS discharges are expected to contain benzene, ethylbenzene, toluene, phenols, and naphthalenes at concentrations that exceed acute water quality criteria.

Specific operating procedures are followed when refueling MOGAS tanks to reduce the potential for discharging gasoline. These procedures require MOGAS tanks to be filled slowly and prohibit filling the tanks beyond 80 percent of the total tank capacity. Containment is placed around hose connections to contain any releases of gasoline, and containment booms are placed in the water around the vessel being refueled. Diffusers are used within the tanks to prevent entraining fuel into the discharged compensating water. These management practices demonstrate the availability of controls to mitigate potential adverse impacts to the environment. Therefore, EPA and DOD have determined that it is reasonable and practicable to require MPCDs for the MOGAS compensating discharge.

16. Non-Oily Machinery Wastewater

This intermittent discharge is composed of water leakage from the operation of equipment such as distillation plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, and propulsion engine jacket coolers. The discharge is captured in a dedicated system of drip pans, funnels, and deck drains to prevent mixing with oily bilgewater. Only wastewater that is not expected to contain oil is collected in this system. Non-oily machinery wastewater from systems and equipment located above the waterline is drained directly overboard. Non-oily machinery wastewater from systems and equipment below the waterline is directed to collection tanks prior to overboard discharge.

Nuclear-powered Navy surface vessels and some conventionally-powered vessels have dedicated non-oily machinery wastewater systems. Most other Armed Forces vessels have no dedicated non-oily machinery wastewater system, so this type of wastewater drains directly to the bilge and is part of the bilgewater discharge.

Non-oily machinery wastewater is discharged in port, during transit, and at sea. This discharge is generated whenever systems or equipment are in use, and varies in volume according to ship size and the level of machinery use.

Pollutants, including copper, nickel, silver, and bis(2-ethylhexyl)phthalate were present in concentrations that exceed acute Federal criteria or State acute water quality criteria. Nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen) and total phosphorus were present in concentrations exceeding the most stringent State water quality criteria. Mercury (a bioaccumulative chemical of concern) was also detected, but at concentrations that did not exceed Federal or State water quality criteria. There was significant variability in sampling data, and flow rate data were insufficient for reliably estimating mass loadings for this discharge. System design changes to control the types and numbers of contributing systems and equipment, and implementation of management practices to reduce the generation of non-oily machinery wastewater are potential options for reducing the potential impact of this discharge on the environment. For this proposed rule, EPA and DOD have determined that it is reasonable and practicable to require MPCDs for non-oily machinery wastewater.

17. Photographic Laboratory Drains

This intermittent discharge is laboratory wastewater resulting from processing photographic film. Typical liquid wastes from these activities include spent film processing chemical developers, fixer-bath solutions and film rinse water.

Navy ship classes such as aircraft carriers, amphibious assault ships, and submarine tenders have photographic laboratory facilities, including color, black-and-white and x-ray photographic processors. The Coast Guard has two icebreakers with photographic and x-ray processing capabilities. The MSC has two vessels that have photographic processing equipment onboard, but the equipment normally is not operated in U.S. waters. Army, Air Force, and Marine Corps vessels do not use photographic equipment aboard their vessels and therefore do not produce this discharge.

Photographic laboratory wastes may be generated within and beyond 12 n.m. from shore, although current practice is to collect and hold the waste onboard within 12 n.m. The volume and frequency of the waste generation varies with a vessel's photographic processing capabilities, equipment, and operational objectives.

Expected constituents in photographic laboratory waste include acetic acid, aluminum sulfate, ammonia, boric acid, ethylene glycol, sulfuric acid, sodium acetate, sodium chloride, ammonium bromide, aluminum sulfate, and silver. Concentrations of silver can exceed acute Federal criteria and State acute water quality criteria; however, the existing data are insufficient to determine whether drainage from shipboard photographic laboratories has the potential to cause adverse environmental effects.

The Navy has adopted guidance to control photographic laboratory drains, including containerizing for onshore disposal all photographic processing wastes generated within 12 n.m., and is transitioning to digital photographic systems. The current handling practices and the availability of digital photographic systems demonstrates that MPCDs are available to mitigate potential adverse effects, if any, from photographic laboratory drains. Therefore, EPA and DOD have determined that it is reasonable and practicable to require use of a MPCD for this discharge.

18. Seawater Cooling Overboard Discharge

This discharge consists of seawater from a dedicated system that provides noncontact cooling water for other vessel systems. The seawater cooling system continuously provides cooling water to heat exchangers, removing heat from main propulsion machinery, electrical generating plants, and other auxiliary equipment. The heated seawater is discharged directly overboard. With the exception of some small, non-self-propelled vessels and service craft, all Armed Forces vessels discharge seawater from cooling systems. Typically, the demand for seawater cooling is continuous and occurs both within and beyond 12 n.m. from shore.

Seawater cooling overboard discharge contains trace materials from seawater cooling system pipes, valves, seachests, pumps, and heat exchangers. Pollutants detected in seawater cooling overboard discharge include copper, zinc, nickel, arsenic, chromium, lead, and nitrogen (in the form of ammonia, nitrates and nitrities, and total Kjeldahl nitrogen). Copper, nickel, and silver were detected in concentrations exceeding both the chronic Federal criteria and State chronic water quality criteria. Nitrogen was detected in concentrations exceeding the most stringent State water quality criteria. These concentrations contribute to a significant total mass released by this discharge due to the large volume of cooling water. In addition, thermal effects modeling indicate that some vessels may exceed State thermal mixing zone requirements. The seawater cooling water system has a low potential for transporting nonindigenous species, because the residence time for most portions of the system are short. However, a strainer plate is used to minimize the inflow of larger biota during system operation. The strainer plate is periodically cleaned using low pressure air or steam to dislodge any accumulated material. This procedure may result in releasing biota that have attached to the plate.

A potential MPCD option for achieving pollutant reductions is the use of alternative piping systems (i.e., different metallurgy) that provide lower rates of pipe wall corrosion and erosion. The potential substitution of materials demonstrates the availability of controls to mitigate potential adverse impacts on the environment. Based on this information, EPA and DOD have determined that it is reasonable and practicable to require use of a MPCD for this discharge.

19. Seawater Piping Biofouling Prevention

This discharge consists of the additives used to prevent the growth and attachment of biofouling organisms in seawater cooling systems on selected vessels, as well as the reaction byproducts resulting from the use of these additives. Aboard some vessels, active biofouling control systems are used to control biological fouling of surfaces within the seawater cooling systems. Generally, these active biofouling control systems are used when the cooling system piping does not have inherent antifouling properties (e.g., titanium piping). The most common seawater piping biofouling prevention systems include chlorination, chemical dosing, and anodic biofouling control systems. All three systems act to prevent fouling organisms from adhering to and growing on interior piping and components. Fouling reduces seawater flow and heat transfer efficiency. Chlorinators use electric current to generate chlorine and chlorine-produced oxidants from seawater. Anodic biofouling control systems use electric current to accelerate the dissolving of an anode to release metal ions into the piping system. Chemical dosing uses an alcohol-based chemical dispersant that is intermittently injected into the seawater system.

Twenty-nine Armed Forces vessels use active seawater piping biofouling control systems. Nine vessels use onboard chlorinators, 19 vessels use anodic biofouling control systems, and one vessel employs chemical dosing. Chlorinators operate on a preset schedule of intermittent operation, a few hours daily. Chemical dispersant dosing is performed for one hour every three days. Anodic systems normally operate continuously.

Seawater discharged from systems with active biofouling control systems is likely to contain residuals from the fouling control agent (chlorine, alcohol-based chemical additives, or copper), in addition to constituents normally found in cooling water. Based on modeling of the discharge plume, EPA and DOD estimate that receiving water concentrations of residual chlorine could exceed chronic Federal criteria and State chronic water quality criteria. Because of the large volume of seawater discharged from these systems, the resulting mass loading of chlorine released to the environment is considered significant.

Existing operational controls that limit the residual chlorine discharged to the environment demonstrate the availability of an MPCD to mitigate the potential for adverse impacts from this discharge. EPA and DOD have determined that it is reasonable and practicable to require a MPCD for seawater piping biofouling prevention systems.

20. Small Boat Engine Wet Exhaust

This discharge is the seawater that is mixed and discharged with small boat propulsion engine exhaust gases to cool the exhaust and quiet the engine. Small boats are powered by either inboard or outboard engines. Seawater is injected into the exhaust of these engines for cooling and to quiet engine operation. Constituents from the engine exhaust are transferred to the injected seawater and discharged overboard as wet exhaust.

Most small boats with engines generate this discharge. The majority of inboard engines used on small boats are two-stroke engines that use diesel fuel. The majority of outboard engines are two-stroke engines that use a gasoline-oil mixture for fuel. This discharge is generated when operating small boats. Due to their limited range and mission, small boats spend the majority of their operating time within 12 n.m. from shore.

Wet exhaust from outboard engines contains several constituents that can exceed acute Federal criteria or State acute water quality criteria including benzene, toluene, ethylbenzene, and naphthalene. Wet exhaust from inboard engines can contain benzene, ethylbenzene, and total polycyclic aromatic hydrocarbons (PAHs) that can exceed State water quality criteria. Mass loadings of these wet exhaust constituents are considered large. Potential MPCD options include replacing existing outboard engines with new reduced-emission outboard engines, and ensuring all new boats and craft have inboard engines with dry exhaust systems. Therefore, EPA and DOD have determined that it is reasonable and practicable to require use of a MPCD for small boat engine wet exhaust.

21. Sonar Dome Discharge

This discharge is generated by the leaching of antifoulant materials from the sonar dome material into the surrounding seawater and the discharge of seawater or freshwater from within the sonar dome during maintenance activities. Hull-mounted sonar domes house the electronic equipment used to navigate, detect, and determine the range to objects. Sonar domes are composed of either rubber impregnated with TBT anti-foulant, rubber without

TBT, steel, or glass-reinforced plastic, and are filled with freshwater and/or seawater to maintain their shape and internal pressure. The discharge is generated when materials leach from the exterior surface of the dome, or when water from inside the dome is pumped overboard to allow for periodic maintenance or repairs on the sonar dome or equipment housed inside the dome.

Only Navy and MSC operate vessels with sonar domes. Sonar domes are currently installed on approximately 225 vessels, including eight classes of Navy vessels and one class of MSC vessels. Sonar domes on MSC vessels are fiberglass and do not contain TBT.

The leaching of materials from the exterior surface of the dome is a continuous discharge and occurs both within and beyond 12 n.m. from shore. Discharges from the interior of the dome are intermittent and occur while the vessel is pierside as water inside the dome is removed to allow for periodic maintenance or repairs (approximately twice per year per dome).

Expected constituents of sonar dome water discharge are TBT, dibutyl tin, monobutyl tin, and metals such as copper, nickel, zinc, and tin. Based on sampling data in the record, concentrations of TBT, copper, nickel, and zinc can exceed acute Federal criteria or State acute water quality criteria, although fleetwide mass loadings of these constituents are not considered large (15 lbs/year of TBT, 23 lbs/year of copper, 11 lbs/year of nickel, and 122 lbs/year of zinc). Nevertheless, the Navy has instituted a program to install new sonar domes that do not have TBT-impregnated internal surfaces as existing domes require replacement. This practice demonstrates the availability of a control to mitigate potential adverse environmental impacts, if any, from sonar dome discharges. Therefore EPA and DOD have determined that it is reasonable and practicable to require a MPCD for sonar dome discharges.

22. Submarine Bilgewater

The submarine bilgewater discharge contains a mixture of wastewater and leakage from a variety of sources that are allowed to drain to the lowest inner part of the hull, known as the bilge. These sources can include condensed steam from steam systems, spillage from drinking fountains, valve and piping leaks, and evaporator dumps (i.e., evaporator water that fails to meet specifications for use). From the various collection points in the bilge, this bilgewater is transferred via an auxiliary drain system to a series of holding tanks. Most submarines have the capability to segregate oily wastewater from non-oily wastewater. The non-oily waste is discharged directly overboard and the oily wastewater is collected in a tank that allows gravity separation of the oil and water. The separated water phase is then discharged overboard, as needed, and the oil phase held onboard until it can be transferred to shore facilities for disposal.

This discharge is generated by all submarines, all of which are operated by the Navy. Approximately 60 of the submarines (the SSN 688 class) discharge the separated water phase from the bilgewater collection tanks within and beyond 12 n.m. from shore. The remaining submarines generally hold all bilgewater onboard until they are beyond 50 n.m. from shore. The frequency and volume of the discharge is highly variable, depending upon crew size, operating depth, and equipment conditions.

Sampling conducted onboard submarines showed concentrations of cadmium, chlorine, copper, cyanide, heptachlor, heptachlor epoxide, mercury (a bioaccumulative chemical of concern), nickel, oil, phenol, silver, and zinc that exceeded acute Federal criteria or State acute water quality criteria. Submarines use gravity separation to reduce the concentration of oil in bilgewater prior to discharge; however, this method apparently does not consistently produce a discharge that meets water quality criteria. The adequacy of existing gravity separation treatment to provide effective environmental protection will be addressed by the Phase II rulemaking. The nature of this discharge is such that submarine bilgewater, if untreated, could potentially impact the environment. Because of this potential to cause adverse environmental impacts, coupled with the demonstration that pollution controls are available to reduce the oil content of the discharge, EPA and DOD have determined that it is reasonable and practicable to require the use of a MPCD for submarine bilgewater.

23. Surface Vessel Bilgewater/OWS Discharge

The surface vessel bilgewater/OWS discharge consists of a mixture of wastewater and leakage from a variety of sources that are allowed to drain to the lowest inner part of the hull, known as the bilge. The sources of surface vessel bilgewater are generally similar to those discussed above for submarines. An additional source of bilgewater for surface vessels is water from the continual blowdown of boilers (i.e., boiler blowdown). On surface vessels, bilgewater is usually transferred to an oily waste holding tank, where it is stored for shore disposal or treated in an oil-water separator (OWS) to remove oil before being discharged overboard. Some vessels also have an oil content monitor (OCM) installed downstream from the OWS to monitor bilgewater oil content prior to discharge. Vessels with OCMs have the capability to return bilgewater not meeting a preset oil concentration limit to the OWS for reprocessing until the limit is met. Oil collected from the OWS separation process is held in a waste oil tank until transferred to shore facilities for disposal.

All vessels of the Armed Forces produce bilgewater and most of the larger vessels have OWS systems. Small craft bilgewater is collected and transferred to shore facilities while pierside.

Bilgewater accumulates continuously; however, vessels of the Armed Forces do not discharge untreated bilgewater. Under current policy, bilgewater treated by an OWS can be discharged as needed within 12 n.m., while untreated bilgewater is held for transfer to a shore facility for treatment. For vessels with an OWS and OCM, oil concentrations in the treated bilgewater must be less than 15 ppm prior to overboard discharge.

Sampling data for OWS effluent show oil, copper, iron, mercury (a bioaccumulative chemical of concern), nickel, and zinc exceed acute Federal criteria or State acute water quality criteria. Sampling data also show concentrations of nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen) and phosphorus exceed the most stringent State water quality criteria. The estimated mass loading for oil is considered to be large.

The existing policies prohibiting the discharge of untreated bilgewater, and the extensive use of oil-water separators and oil content monitors demonstrate the availability of pollution controls for bilgewater. The data in the record indicate that untreated bilgewater would likely cause adverse environmental impacts. Therefore, EPA and DOD have determined that it is reasonable and practicable to require the use of a MPCD for this discharge.

24. Underwater Ship Husbandry

The underwater ship husbandry discharge is composed of materials discharged during the inspection, maintenance, cleaning, and repair of hulls and hull appendages performed while the vessel is waterborne. Underwater ship husbandry includes activities such as hull cleaning,

fiberglass repair, welding, sonar dome repair, propulsor lay-up, non-destructive testing, masker belt repairs, and painting operations.

Underwater ship husbandry discharge is created occasionally by all Navy surface ships and submarines, and some Coast Guard vessels. These ship husbandry operations are normally conducted pierside. Of the underwater ship husbandry operations, only underwater hull cleaning and propulsor (i.e., propeller) lay-up have the potential for causing an adverse environmental effect. Underwater hull cleaning is conducted by divers using a mechanical brush system. Copper and zinc are released during cleaning in concentrations that exceed acute Federal criteria and State acute water quality criteria and produce a significant mass loading of constituents. The copper and zinc in this discharge originate from the anti-fouling and anticorrosive hull coatings applied to vessels. Data from commercial vessels indicate that underwater hull cleaning also has the potential to transfer nonindigenous aquatic species. Propulsor lay-up requires the placement of a vinyl cover over the propulsor to reduce fouling of the propulsor when the vessel is in port for extended periods. Chlorine-produced oxidants are generated from impressed current cathodic protection systems and can build up within the cover to levels exceeding State water quality criteria. However, discharges from this operation, as well as other ship husbandry operations (excluding hull cleaning) are infrequent and small in terms of volume or mass loading.

The Navy has established policies to minimize the number of hull cleanings, based on the degree to which biological fouling has occurred. In addition, the Navy has established procedures to use the least abrasive cleaning equipment necessary as a means for reducing the mass of copper and zinc in the discharge. These practices represent available controls to mitigate adverse impacts from underwater ship husbandry operations, and EPA and DOD have determined that it is reasonable and practicable to require the use of a MPCD to control this discharge.

25. Welldeck Discharges

This discharge is the water that accumulates from the seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from the maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck.

Amphibious operations by the Armed Forces require transport of vehicles, equipment, and personnel between ship and shore on landing craft. The landing craft are stored in a docking well, or welldeck, of some classes of amphibious warfare ships. To load or unload landing craft, amphibious warfare ships may need to flood the welldeck by taking on ballast water and sinking the aft (rear) end of the ship. Water that washes out of the welldeck contains residual materials that were on the welldeck prior to flooding. Other welldeck discharges are created by routine operations such as washing equipment and vehicles with potable water, washing the gas turbine engines of air-cushion landing craft (LCACs) in the welldeck with mild detergents, and graywater from stored utility landing craft (LCUs). Additionally, the U.S. Department of Agriculture (USDA) requires washing welldecks, vehicle storage areas, and equipment upon return from overseas locations. The washing is required to ensure that there is no inadvertent transport of nonindigenous species to land. USDA-required washes of welldecks and vehicle storage areas occur pierside, while vehicles and equipment are washed onshore in a USDA-designated area. Effluent from these activities drain to unflooded welldecks and are discharged directly overboard.

The Navy is the only branch of the Armed Forces with ships having welldecks. Thirty-three amphibious warfare ships produce this discharge, which is released both within and beyond 12 n.m. from shore.

Depending upon the specific activities conducted, welldeck discharges contain a variety of residual constituents, including oil and grease, ethylene glycol (antifreeze), chlorine, detergents/cleaners, metals, solvents, and sea-salt residues. The volume of welldeck washout varies depending upon the type of landing craft to be loaded or unloaded. The greatest volume of welldeck discharge occurs when LCUs are being loaded into, or unloaded from the welldeck. Loading and unloading of LCACs does not require the welldeck to be flooded. Instead, a small "surge" of water enters the ship during these operations. Constituent concentrations in welldeck washout are expected to be low due to dilution in the large volume of water discharged, and because of general housekeeping procedures which require containment and cleanup of spills on the welldeck.

Other discharges from the welldeck include vehicle and craft washwater, gas turbine engine washes, and USDA washes. Constituents of these discharges are expected to be identical to those in welldeck washout. Of the various welldeck discharges, gas turbine water washes and USDA washes may result in hydrocarbon, chlorine, or metal concentrations that exceed acute water quality criteria. In addition, there is a potential for nonindigenous species to be introduced from USDA-required welldeck washes, although it should be noted that the viability of any species introduced is questionable since they generally would have been exposed to air for extended periods of time prior to their introduction into U.S. coastal waters (i.e., for the most part, these species would have been removed from vehicles and deck surfaces and thus it would not be a water-to-water transfer, in contrast to species transfers from ballast water systems).

Existing practices for containment and cleanup of welldeck spills demonstrate the availability of controls to reduce contamination of welldeck discharges and the potential for causing adverse environmental impacts (e.g., oil sheens). EPA and DOD have determined that it is reasonable and practicable to require a MPCD for welldeck discharges.

D. Discharges That Do Not Require Use of a MPCD

For the reasons discussed below, EPA and DOD have determined that it is not reasonable and practicable to require the use of a MPCD to control 14 discharges incidental to the normal operation of Armed Forces vessels. Based on the information in the record, these discharges have a low potential to adversely affect the environment by introduction of chemical constituents, thermal pollution, bioaccumulative chemicals of concern, or nonindigenous species.

As discussed below, in some cases, the concentration of one or more constituents in the undiluted discharge exceed water quality criteria at the point of discharge. However, such discharges occur in low volumes or infrequently. In all of these instances, either the pollutant concentration in the discharge plume quickly falls below water quality criteria once the dilution effect of mixing zones is taken into account, or the low mass loading of the discharge is unlikely to adversely affect the environment.

EPA and DOD have determined that it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for the discharges listed in Table 2 of this preamble and discussed below in this section. These discharges would not require control, and no control standards will be set for them, in Phase

II of UNDS development. Upon promulgation of the final Phase I rule, States and their political subdivisions would be prohibited from adopting or enforcing any statute or regulation to control these discharges, except by establishing no-discharge zones (see section VI.C of this preamble). Following promulgation of the final Phase I rule, States can petition EPA and DOD to review the determination not to require MPCDs for these discharges using the procedures set forth in proposed 40 CFR 1700.11 and 1700.12.

The discussion below provides a brief description of the discharges and the systems that produce the discharge and highlights the most significant constituents released to the environment and other characteristics of the discharge. A more detailed discussion of these discharges is presented in Appendix A of the Technical Development Document.

1. Boiler Blowdown

This discharge is the water and steam discharged during the blowdown of a boiler or steam generator, or when a safety valve is tested. Boilers are used to produce steam for propulsion and a variety of auxiliary and hotel services. Water supplied to the boiler system (feedwater) is treated with chemicals to inhibit corrosion and the formation of scale in the boiler and boiler system piping. Periodically, water must be removed from the boiler to control the buildup of particulates, sludge, and treatment chemical concentrations. The term "blowdown" refers to the minimum discharge of boiler water required to prevent the buildup of these materials in the boiler to levels that would adversely affect boiler operation and maintenance. There are four types of boiler blowdown procedures employed on Armed Forces vessels: (1) surface blowdowns for removing materials dissolved in the boiler water and for controlling boiler water chemistry; (2) scum blowdowns for removing surface scum; (3) bottom blowdowns for removing sludge that settles at the bottom of boilers; and (4) continuous blowdowns for removing dissolved metal chelates and other suspended matter. The type of blowdown used is a function of the boiler water chemistry and thus varies among vessel classes. With the exception of continuous blowdowns, boiler blowdowns are discharged below the vessel waterline. Continuous blowdowns are discharged inside the vessel and are directed to the bilge. These are addressed as part of the surface vessel bilgewater/OWS discharge (see section V.C.23 of this preamble). Another discharge occurs during periodic testing of steam generator safety valves on nuclear-powered vessels. The safety valve discharge is a short-duration release of steam below the vessel waterline.

Approximately 360 surface vessels and submarines discharge boiler blowdowns directly to receiving waters. These blowdowns occur both within and beyond 12 n.m. from shore. Nuclear-powered ships perform steam generator safety valve testing only in port once every five years.

Boiler blowdown is discharged intermittently in small volumes (approximately 300 gallons per discharge), at high velocities (over 400 feet per second), and at elevated temperatures (over 325 degrees Fahrenheit). Boiler water treatment chemicals used by Armed Forces vessels include ethylenediamine-tetraacetic acid (EDTA), hydrazine, sodium hydroxide, and disodium phosphate. Sampling data for boiler blowdowns indicate the presence of nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen), phosphorus, hydrazine, iron, bis(2-ethylhexyl)phthalate, antimony, arsenic, cadmium, chromium, copper, lead, nickel, selenium, thallium, and zinc. Boiler blowdown discharges from conventionally-powered boilers exceed Federal criteria and State water quality criteria for copper, nickel, and zinc, and the most stringent State water quality criteria for nitrogen, phosphorus, iron, and lead. Blowdown discharges from nuclear-powered steam generators exceed acute Federal criteria and State acute water quality criteria for copper, and the most stringent State acute water quality criteria for lead and nickel. For nitrogen and phosphorus, the most stringent State water quality criteria was exceeded. However, the turbulent mixing resulting from the high velocity discharge, and the relatively small volume of the boiler blowdown causes pollutant concentrations to rapidly dissipate to background levels or below acute Federal criteria and State acute water quality criteria within a short distance from the point of discharge. Based on thermal modeling of the discharge plume, boiler blowdowns are not expected to exceed State standards for thermal effects. Thermal effects from safety valve testing are substantially less than that from blowdowns, thus safety valve testing also will not exceed State standards for thermal effects. Annual fleetwide pollutant discharges from boiler blowdowns within 12 n.m. are estimated at 3,036 pounds per year of phosphorus, 513 pounds/year of nitrogen, less than 11 pounds of copper, less than 2 pounds of lead, approximately 10 pounds of nickel, and less than 12 pounds of zinc. The fleetwide discharge of all pollutants from safety valve testing is less than 5 pounds/year. While the pollutant concentrations in the boiler blowdown discharges exceed acute Federal criteria and State acute water quality criteria, they are discharged intermittently and in small volumes. Further, these discharges are distributed throughout the U.S. at Armed Forces ports, and each individual port receives only a fraction of the total fleetwide mass loading. Based on the information in the record regarding the low mass of pollutants discharged during boiler blowdowns and safety valve discharges, and the manner in which the discharges take place, there is a low potential for causing adverse environmental impacts. Therefore, EPA and DOD have concluded that it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

2. Catapult Wet Accumulator Discharge

This discharge is the water discharged from a catapult wet accumulator, which stores a steam/water mixture for launching aircraft from an aircraft carrier.

The steam used as the motive force for operating the catapults for launching aircraft is provided to the catapult from a steam reservoir, referred to as the catapult wet accumulator. The catapult wet accumulator is a pressure vessel containing a steam/water mixture at a high temperature and pressure. The accumulator is fed an initial charge of boiler feedwater and provided steam from boilers. As steam is released from the accumulator for the catapult launch, the pressure reduction in the accumulator allows some of the water to flash to steam, providing additional steam to operate the catapult. During operation of the system, steam condenses in the accumulator and causes the water level in the accumulator to gradually rise. Periodic blowdowns of the accumulator are required to maintain the water level within operating limits. This steam/water mixture released during the blowdown is discharged below the vessel waterline. In addition to blowdowns required during catapult operation and testing, wet accumulators are emptied prior to major maintenance of the accumulator or when a carrier will be in port for more than 72 hours. When emptying the accumulator, multiple blowdowns are performed over an extended period (up to 12 hours) to

reduce pressure prior to draining the tank.

The Navy is the only branch of the Armed Forces with vessels generating this discharge. Eleven of the aircraft carriers are homeported in the United States.

Wet accumulator blowdowns are performed during flight operations, which occur beyond 12 n.m., and during catapult testing, which occurs within 12 n.m. from shore. Wet accumulators are emptied outside 12 n.m. when returning to port for accumulator maintenance or when the carrier will be in port for more than 72 hours. If catapult testing is conducted in port, and the carrier will remain in port for more than 72 hours following the testing, the accumulator will be emptied in port.

Catapult wet accumulator blowdowns have little potential for causing adverse environmental impacts because of the low pollutant loadings and thermal effects of this discharge. Because boiler feedwater is used for the initial charge of water to an empty accumulator, the constituents of the discharge include water treatment chemicals present in boiler feedwater. These chemicals include EDTA, disodium phosphate, and hydrazine. During normal operation, the boiler feedwater chemicals are diluted by the supplied steam. Additional constituents present in the blowdowns originate from the steam provided to the accumulator. Based on sampling data for steam condensate (a similar discharge discussed below in section V.D.10) and the volume of wet accumulator blowdowns performed within 12 n.m., the combined mass loading for all metals is estimated at less than 0.01 pounds per year. Constituents found in steam condensate include antimony, arsenic, benzidine, bis(2-ethylhexyl)phthalate, cadmium, copper, nickel, nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen), phosphorus, selenium, thallium, and zinc. The concentrations of benzidine, copper, and nickel in steam condensate were found to exceed acute Federal criteria and State acute water quality criteria. The concentration of bis(2-ethylhexyl)phthalate was found to exceed State acute water quality criteria. The concentrations of nitrogen and phosphorus were found to exceed the most stringent State water quality criteria. However, using steam condensate data may overestimate wet accumulator pollutant concentrations because of the shorter contact time between catapult steam and its associated piping system (resulting in less opportunity to entrain corrosion products from the piping). Based on thermal modeling of the discharge plume, catapult wet accumulator blowdowns are not expected to exceed State standards for thermal effects.

Catapult wet accumulator blowdowns have little potential for causing adverse environmental impacts because of the very low pollutant mass loadings in this discharge and because of the low thermal effects from this discharge. Therefore, EPA and DOD determined that it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

3. Cathodic Protection

This discharge consists of the constituents released into the surrounding water from sacrificial anodes or impressed current cathodic protection systems used to prevent hull corrosion.

Steel-hulled vessels require corrosion protection. In addition to anti-corrosion hull paints, these vessels employ cathodic protection which is provided by either sacrificial anodes or Impressed Current Cathodic Protection (ICCP) systems. The most common cathodic protection system for vessels of the Armed Forces is the zinc sacrificial anode, although a few submarines use aluminum anodes. With the sacrificial anode system, zinc or aluminum anodes attached to the hull will preferentially corrode from exposure to the seawater and thereby minimize corrosion of the vessel's hull.

In ICCP systems, the vessel's electrical system passes a current through inert platinum-coated anodes. This current protects the hull in a manner similar to sacrificial anodes by generating current as the anodes corrode. Depending on the type of cathodic protection used, the discharge will include either zinc or aluminum from sacrificial anodes, or chlorine-produced oxidants (CPO) from ICCP systems.

Approximately 1,800 large Armed Forces vessels use cathodic protection. Of these, nearly 270 have ICCP systems, fewer than five use aluminum sacrificial anodes, and the remaining use zinc sacrificial anodes. The discharge is continuous while the vessel is waterborne and occurs both within and beyond 12 n.m. from shore.

EPA and DOD modeled the discharge from cathodic protection systems to determine the range of constituent concentrations that could be expected in the water surrounding a vessel. This discharge is best described as a mass flux of reaction byproducts emanating from the electro-chemical reaction that occurs at the anodes. Two separate modeling techniques were used for both sacrificial anodes and ICCP systems. The first technique was a dilution model for harbors that takes into account the number of homeported vessels and harbor-specific volume and tidal flow information. Three Navy ports were modeled, representing a range of port sizes. The resulting constituent concentrations calculated for the three ports in this dilution model were below chronic Federal criteria and State chronic water quality criteria.

The second technique modeled mixing zones around a vessel using calculations for a hull size typical of vessels using cathodic protection systems. The mixing model results indicate that a mixing zone of five feet for CPO and 0.5 feet for zinc results in concentrations below the chronic Federal criteria or State chronic water quality criteria. For vessels with aluminum anodes, a mixing zone of less than 0.1 feet achieves concentrations below chronic Federal criteria and State chronic water quality criteria. Concentrations of mercury will be 1,000 times lower than the acute State water quality criteria and 35 times lower than the chronic criteria. The total amount of mercury discharged from aluminum anodes on all Armed Forces vessels is estimated to be less than 0.001 pounds annually.

For ICCP calculations, the modeling is based on an assumption that 100 percent of the supplied electrical current results in CPO generation. Less CPO is actually expected to be generated because the efficiency of the chlorine generation process is known to be less than 100 percent. In addition, using the generation rate alone does not account for the rapid decay of CPO in water through chemical reactions involving CPO, which occur within minutes.

The dilution and mixing zone modeling performed for this discharge indicates that cathodic protection has a low potential for causing adverse impacts on the marine environment. Therefore, EPA and DOD determined that it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

4. Freshwater Lay-up

This discharge is the potable water that is periodically discharged from the seawater cooling system while the vessel is in port, and the cooling system is in a lay-up mode.

Seawater cooling systems are used onboard some Armed Forces vessels to remove heat from main propulsion machinery, electrical generating plants

and other auxiliary equipment. These are single-pass, non-contact cooling systems whereby the seawater enters the hull, is pumped through a piping network and circulated through one or more heat exchangers, then exits the vessel. On certain vessels, the seawater cooling systems are placed in a stand-by mode, or lay-up, when the machinery is not in use. The lay-up is accomplished by blowing the seawater from the condenser with low-pressure air. The condenser is then filled with potable water and drained again to remove residual seawater as protection against corrosion. Then, the condenser is refilled with potable water for the actual lay-up. After 21 days, the lay-up water is discharged overboard and the condenser refilled. The condenser is discharged and refilled on a 30-day cycle thereafter. The volume of each condenser batch discharge is approximately 6,000 gallons.

The Navy is the only branch of the Armed Forces with vessels discharging freshwater lay-up. All submarines generate this discharge, which only occurs while in port. Eight aircraft carriers also lay-up their condensers; however, these condensers are drained to the bilge and the water is handled as bilgewater. Generally, the cooling system is only placed in a lay-up condition if the vessel remains in port for more than three days and the main steam plant is shut down.

Sampling data for submarine freshwater lay-up indicate the presence of chlorine, nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen), and the priority pollutants chromium, copper, lead, nickel, and zinc. The concentrations of chlorine, copper, nickel, and zinc can exceed acute Federal criteria or State acute water quality criteria. For nitrogen and total phosphorus, the most stringent State water quality criteria was exceeded. Chlorine was detected in the initial flush discharge, but was not found in the extended lay-up discharge. Mass loadings for the priority pollutants (copper, nickel, and zinc) were estimated using total annual discharge volumes and average pollutant concentrations. The total mass loading from all discharges of freshwater lay-up from submarines is estimated at 7 lbs/yr of copper, 36 lbs/yr of nickel, and 29 lbs/yr of zinc. The mass discharge from any individual freshwater lay-up discharge event would be a fraction of that total. Because of the low total annual mass loading, the low frequency at which the discharge occurs, and the volume of an individual discharge event, discharges of freshwater lay-up have a low potential for causing adverse environmental impacts. Therefore, EPA and DOD determined that it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

5. Mine Countermeasures Equipment Lubrication

This discharge consists of the constituents released into the surrounding seawater by erosion or dissolution from lubricated mine countermeasures equipment when the equipment is deployed or towed. Various types of mine countermeasures equipment are deployed and towed behind vessels to locate and destroy mines. Lubricating grease and oil applied to this equipment can be released into surrounding seawater during its deployment and use, including during training exercises.

The Navy is the only branch of the Armed Forces with a mine countermeasures mission. The Navy uses two classes of vessels, totaling 23 ships, to locate, classify, and destroy mines. The discharge is generated during training exercises, which are normally conducted between 5 and 12 n.m. from shore. Depending on the class of vessel and the type of mine countermeasures equipment being used, the number of training exercises conducted by each vessel ranges from 6 to 240 per year.

Using estimates of the amount of lubricant released during each training exercise, EPA and DOD calculated the annual mass loading of lubricant discharges to be approximately 770 pounds of grease and oil. Using the estimates of the pollutant mass loading released during an exercise, and the volume of water through which the countermeasures equipment is towed or operated during an exercise, EPA and DOD estimated the oil and grease concentrations resulting from mine countermeasures training exercises. These estimated concentrations of oil and grease in the receiving water range from 0.0002 to 7.1 µg/l and do not exceed acute water quality criteria.

An additional calculation was performed for the lift cable for the SLQ–48 mine neutralization vehicle (MNV). This lift cable is lubricated with grease; however, the cable is not towed through the water and is only used to deploy or recover the MNV while a vessel is stationary. Using the maximum predicted release of 0.15 ounces of grease per deployment, modeling results indicate that the grease released from the lift cable would disperse in the surrounding receiving waters and be at concentrations below the most stringent State acute water quality criteria within 3 to 5 feet from the cable.

Most discharges from mine countermeasures equipment occur while vessels are underway and the pollutants are quickly dispersed in the environment due to the turbulent mixing conditions caused by the wake of the vessel and towed equipment. Further, these discharges take place beyond 5 n.m. from shore in waters with significant wave energy, allowing for rapid and wide dispersion of the releases. The manner in which these releases occur, coupled with the relatively small amounts of lubricants released, results in this discharge having a low potential for causing adverse impacts on the marine environment. Therefore, EPA and DOD determined that it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for the mine countermeasures equipment lubrication discharge.

6. Portable Damage Control Drain Pump Discharge

This discharge consists of seawater pumped through the portable damage control drain pump and discharged overboard during periodic testing, maintenance, and training activities.

Portable damage control (DC) drain pumps are used to remove water from vessel compartments during emergencies or provide seawater for shipboard firefighting in the event water is unavailable from the firemain system. The types of pumps used are described in section V.D.7, Portable Damage Control Drain Pump Wet Exhaust. Discharges from drain pumps being used during onboard emergencies are not incidental to normal vessel operations, and therefore are not within the scope of this proposed rule. These pumps are, however, periodically operated during maintenance, testing, and training, and pump discharges during these activities are within the scope of this rule. To demonstrate that the pumps are functioning properly, the suction hose is hung over the side of the vessel and the pump operated to verify that the pump effectively transfers the seawater or harbor water. This pump effluent is discharged directly overboard during this testing.

All large ships and selected boats and craft of the Armed Forces generate this discharge. As part of equipment maintenance, testing, and training, the pumps are operated both within and beyond 12 n.m. from shore. Navy , Army, and MSC vessels operate portable DC drain pumps for approximately 10 minutes per month and an additional 15

minutes per year to demonstrate working order and condition. Coast Guard vessels operate their portable DC drain pumps for approximately 30 minutes per month for maintenance and testing.

This discharge consists of seawater/harbor water that only briefly passes through a pumping process. The drain pump discharge is unlikely to cause adverse impacts because the water has a residence time of less than five seconds in the pump and associated suction and discharge hoses, and no constituents are expected to be added to the seawater/harbor water. Therefore, EPA and DOD determined it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

7. Portable Damage Control Drain Pump Wet Exhaust

This periodic discharge is seawater that has mixed and been discharged with portable damage control drain pump exhaust gases to cool the exhaust and quiet the engine.

Portable, engine-driven pumps provide seawater for shipboard firefighting in the event water is unavailable from the firemain. Two models of these portable damage control (DC) drain pumps are used: P–250 and P–100. The P–250 pumps operate on gasoline injected with oil-based lubricants. Part of the seawater output from these pumps is used to cool the engine and quiet the exhaust. This discharge, termed wet exhaust, is typically routed overboard through a separate exhaust hose and does not include the main discharge of the pump which is classified separately as Portable Damage Control Drain Pump Discharge.

Fuel residuals, lubricants, or their combustion byproducts are present in P–250 engine exhaust gases, condense in the cooling water stream, and are discharged as wet exhaust. The P–100 model operates on diesel fuel. Although the engine that drives the P–100 pump is air-cooled and no water is injected into the exhaust of the pump, a small amount of water contacts the engine during pump priming. Up to one-seventh of a gallon of water may be discharged during each priming event. This water discharged during P–100 priming is considered part of the portable DC drain pump wet exhaust.

The Navy operates approximately 910 drain pumps, the MSC approximately 140 drain pumps, and the Coast Guard approximately 370 drain pumps.

Portable DC drain pump wet exhaust discharges occur during training and monthly planned maintenance activities both within and beyond 12 n.m. from shore. During monthly maintenance activities, the pumps are run for approximately 10 to 30 minutes. The use of portable DC drain pumps during onboard emergencies is not incidental to normal operations, and therefore not within the scope of this proposed rule.

Based on data in the record, the wet exhaust discharge is likely to include metals, oil and grease, and volatile and semi-volatile organic compounds. The concentrations of copper, lead, nickel, silver, zinc, and iron in portable DC drain pump wet exhaust can exceed acute Federal criteria and State acute water quality criteria. Concentrations of oil and grease, benzene, toluene, ethylbenzene, and napthalene can exceed State acute water quality criteria. Concentrations of these constituents in receiving waters are not expected to exceed water quality criteria because they will dissipate quickly since the mass loadings per discharge event are small and the discharge locations are dispersed fleetwide. The discharge from each of the 500 P–250 pumps occurs separately at different discharge locations. On average, each P–250 pump discharges less than 0.3 pounds of pollutants per discharge event. The duration of each discharge is short, averaging less than 30 minutes. These factors allow the pollutants to dissipate rapidly. Based on this information, the portable DC drain pump wet exhaust is expected to have a low potential for exhibiting adverse environmental impacts on the marine environment. Therefore, EPA and DOD determined it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for this discharge.

8. Refrigeration and Air Conditioning Condensate

This discharge is the drainage of condensed moisture from air conditioning units, refrigerators, freezers, and refrigerated spaces. Refrigerators, refrigerated spaces, freezers, and air conditioning (AC) units produce condensate when moist air contacts the cold evaporator coils. This condensate drips from the coils and collects in drains. Condensate collected in drains above the vessel waterline is continuously discharged directly overboard. Below the waterline, condensate is directed to the bilge, non-oily machinery wastewater system, or is retained in dedicated holding tanks prior to periodic overboard discharge.

Approximately 650 Navy, MSC, Coast Guard, Army, and Air Force vessels produce this discharge. The condensate may be discharged at any time, both within and beyond 12 n.m. from shore.

Condensate flow rates depend on air temperature, humidity, and the number and size of cooling units per vessel. The discharge can contain cleaning detergent residuals, seawater from cleaning refrigerated spaces, food residues, and metals contributed from contact with cooling coils and drain piping. Because evaporator coils are made from corrosion-resistant materials and condensation is non-corrosive, condensate is not expected to contain metals in significant concentrations. Discharges of refrigeration/AC condensate are expected to have a low potential for causing adverse environmental impacts, therefore EPA and DOD determined it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for condensate discharges.

9. Rudder Bearing Lubrication

This discharge is the oil or grease released by the erosion or dissolution from lubricated bearings that support the rudder and allow it to turn freely. Armed Forces vessels generally use two types of rudder bearings, and two lubricating methods for each type of rudder bearing: (1) grease-lubricated roller bearings; (2) oil-lubricated roller bearings; (3) grease-lubricated stave bearings; and (4) water-lubricated stave bearings. Only oil-lubricated roller bearings and grease-lubricated stave bearings generate a discharge.

Approximately 220 Navy vessels, 50 Coast Guard vessels, and eight MSC vessels use a type of rudder bearing that generates this discharge. The discharge occurs intermittently, primarily when a vessel is underway or its rudder is in use, although some discharges from oil-lubricated roller bearings could potentially occur pierside even when the rudder is not being used because the oil lubricant is slightly pressurized.

This discharge consists of oil leakage and the washout of grease from rudder bearings. EPA and DOD developed an upper bound estimate of the fleetwide release of oil and grease based on allowable leakage/washout rates and the amount of time each vessel spends within 12 n.m. from shore. The maximum allowable oil leak rate for oil-lubricated roller bearings is one gallon/day when the vessel is underway and one pint/day while in port. In practice, these leakage rates are not reached under normal conditions. The grease washout rate for grease-lubricated stave bearings is based on Navy specifications limiting grease washout to 5 percent. Grease washout estimates for this

proposed rule are based on releasing 5 percent of the grease over a two-week period, which corresponds to the time between grease applications.

EPA and DOD calculated the expected receiving water concentrations of oil and grease from this discharge to evaluate the potential for the discharge to cause adverse impacts. The underway receiving water volume was determined using an average size vessel and estimating the volume of water displaced by the vessel while transiting from port to a distance of 12 n.m. from shore. In port, discharges are not expected since the lower bearing seals are designed to prevent leakage and, as noted above, the oil to the bearings is kept at a low pressure while in port. The resulting estimated pollutant concentrations do not exceed acute Federal criteria or State acute water quality criteria. The rudder bearing lubrication discharge has a low potential for causing adverse environmental impacts. EPA and DOD determined that it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for this discharge.

10. Steam Condensate

This discharge is the condensed steam discharged from a vessel in port, where the steam originates from shore-based port facilities. Navy and MSC surface ships often use steam from shore facilities during extended port visits to operate auxiliary systems such as laundry facilities, heating systems, and other shipboard systems. In the process of providing heat to ship systems, the steam cools and a portion of it condenses. This condensate collects in drain collection tanks and is periodically discharged by pumping it overboard. The steam condensate is discharged above the vessel waterline and a portion of the condensate can vaporize as it contacts ambient air.

This discharge is generated only in port because vessels only discharge the condensed steam if it was generated by a shore facility. Ships producing their own steam will recycle their condensate back to the boiler. Vessels take on shore steam when their own boilers are shut down, and thus they have no means for reusing the condensate. There are no systems in place that would allow vessels to return steam condensate to shore for reuse.

Depending on the steam needs of individual vessels, the discharge can be intermittent or continuous whenever shore steam is supplied. Approximately 180 Navy and MSC vessels discharge steam condensate. Coast Guard vessels do not generate this discharge because they operate their auxiliary boilers to produce their own steam even while in port. Army and Air Force vessels do not have steam systems and therefore do not discharge steam condensate.

The constituents of steam condensate include metals from onshore steam piping, ship piping, and heat exchangers, and may have some residual water treatment chemicals. Pollutants found in the discharge include nitrogen (in the form of ammonia, nitrates and nitrites, and total Kjeldahl nitrogen), bis(2-ethylhexyl)phthalate, benzidine, antimony, arsenic, cadmium, copper, chromium, lead, nickel, phosphorus, selenium, thallium, and zinc. Sampling of steam condensate from four vessels found copper concentrations that exceed both acute Federal criteria and State acute water quality criteria. Nickel concentrations exceeded the most stringent State acute water quality criteria, but not the acute Federal criteria. Nitrogen concentrations exceeded the most stringent State water quality criteria. Using upper-bound estimates of the volume of steam condensate discharged, the fleetwide mass loadings for nitrogen, copper and nickel were calculated to be 1972 lbs/year, 49 lbs/year and 28 lbs/year, respectively. The mass discharged from any individual vessel while in a given port would be a fraction of that total. The upper-bound estimate for the fleetwide discharge volume is 300 million gallons per year.

Based on modeling of the discharge plume, the thermal effects resulting from the steam condensate discharge exceed mixing zone requirements for Washington. However, these modeling results may overstate the actual thermal effects because the computer model predicted the plume to be only twelve centimeters in depth, which appears to underestimate the degree of mixing that is likely to occur. In addition, certain assumptions used in the model tend to be more representative of worst-case conditions in how they influence the size of the calculated thermal plume. For example, parameters included in the model assume minimum wind speed and slack water (resulting in less mixing) and winter conditions (which results in larger discharge flows).

The low mass loadings in the discharge and the thermal effects modeling results indicate that steam condensate has a low potential for causing adverse environmental impacts. Therefore, EPA and DOD determined that it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for this discharge.

11. Stern Tube Seals and Underwater Bearing Lubrication

This discharge is the seawater pumped through stern tube seals and underwater bearings to lubricate and cool them during normal operation.

Propeller shafts are supported by stern tube bearings at the point where the shaft exits the hull (for surface ships and submarines), and by strut bearings outboard of the ship (for surface ships only). A stern tube seal is used to prevent seawater from entering the vessel where the shaft penetrates the hull. The stern tube seals and bearings are cooled and lubricated by forcing seawater from the firemain or auxiliary cooling water system through the seals and over the bearings. On submarines, potable water (freshwater) may be supplied from pierside connections for stern tube seal lubrication during extended periods in port.

Strut bearings are not provided with forced cooling or lubrication. Instead, strut bearings use the surrounding seawater flow for lubrication and cooling when the vessel is underway. Submarines do not have strut bearings and instead use a self-aligning bearing aft of the stern tube that supports the weight of the propeller and shafting outboard of the vessel.

Almost all classes of surface vessels and submarines have stern tube seals and bearings that require lubrication, and these discharges are continuous. The discharge can contain synthetic (Buna-N) rubber used in the construction of the bearings. Bis(2-ethylhexyl)phthalate and metals such as copper, nickel and zinc are also expected to be present in the discharge. The primary source of bis(2-ethylhexyl)phthalate and the metals in the discharge is the lubricating water (firemain or auxiliary cooling water). The shaft and the stern tube seal may also be a small contributor to the metals present in the discharge. When freshwater is used for lubricating submarine seals, the freshwater may contain residual chlorine. Based on estimates of chlorine concentrations in potable water, fleetwide approximately 0.8 lbs/year of chlorine exit through the stern tube seals and bearings.

Since the majority of metals discharged through the stern tube seals and bearings originate from the firemain system, mass loadings for metals discharged through the stern tube seals and bearings is included as part of the total mass loading calculations for the firemain system discharge, presented in section V.C.11 of the preamble. Metals contributions from the seals and bearings themselves are expected to be

negligible. It should be noted that the mass of metals exiting through the seals and bearings would be reduced by any controls imposed on firemain system discharges in UNDS Phases II and III. While the metals concentrations in the firemain discharge exceed chronic Federal criteria and State chronic water quality criteria, the rate at which the water is discharged through a vessel's stern tube seal and bearings is relatively small—20 gal/min each shaft, 2 shafts per ship—resulting in the low pollutant mass loading exiting through the seals and bearings. Further, these discharges are distributed throughout the U.S. at Armed Forces ports, and each individual port receives only a fraction of the total fleetwide mass loading. (See the Technical Development Document for details on vessel ports.) Given the low rate of the discharge and the low mass loadings, this discharge has a low potential for causing adverse environmental impacts. Therefore, EPA and DOD determined it is not reasonable and practicable to require the use of a MPCD to mitigate adverse impacts on the marine environment for this discharge.

12. Submarine Acoustic Countermeasures Launcher Discharge

This intermittent discharge is composed of seawater that mixes with acoustic countermeasure device propulsion gas after launching an acoustic countermeasure device, then subsequently discharged either through exchange with the surrounding seawater or while draining from an expended device being removed from the submarine.

Navy submarines have the capability to launch acoustic countermeasures devices to improve the survivability of a submarine by generating sufficient noise to be observed by hostile torpedoes, sonars, or other monitoring devices. The only countermeasures systems that generate a discharge within 12 n.m. are the countermeasures set acoustic (CSA) Mk 2 systems, which launch the countermeasure devices by gas propulsion through a launch tube. Following the launch, a metal plate closes the launch tube forming a watertight endcap. To equalize pressure, a one-way check valve allows water to flow into the tube after launch, but does not allow any of the water to be released through the opening. The launch tube cap contains three, 3/8 inch, bleed hole plugs that dissolve approximately three days after the launch. This allows exchange between the launch tube and the surrounding seawater while the submarine is moving. The bleed holes also allow some launch tube water to drain into the surrounding water when the assembly is removed from the submarine for replacement. The CSA Mk2 system is installed on 24 Navy submarines.

Constituents found in the CSA Mk2 launch tubes after launching countermeasures devices include copper, cadmium, lead, and silver. The discharge may also contain constituents from the propulsion gas including hydrochloric acid, carbon dioxide, carbon monoxide, nitrogen, alumina, iron (II) chloride, titanium dioxide, hydrogen, and iron (II) oxide. Sampling indicates that copper, cadmium, and silver concentrations are above both Federal acute water criteria and the most stringent State acute water quality criteria; lead concentrations are above the most stringent State water quality criteria. The total annual mass loadings from all discharges from submarine CSA Mk2 countermeasure launcher systems are estimated at 0.0005 lbs/year cadmium, 0.0009 lbs/year lead, 0.0007 lbs/year copper, and 0.00009 lbs/year silver.

Because of the low annual mass loading, the low frequency at which the discharge occurs, and the volume of the individual discharge event (17 gallons), discharges from submarine CSA launcher systems have a low potential for causing adverse environmental impacts. Therefore EPA and DOD determined it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for this discharge.

13. Submarine Emergency Diesel Engine Wet Exhaust

This discharge is seawater that is mixed and discharged with exhaust gases from the submarine emergency diesel engine for the purpose of cooling the exhaust and quieting the engine.

Submarines are equipped with an emergency diesel engine that is also used in a variety of non-emergency situations, including electrical power generation to supplement or replace shore-supplied electricity, routine maintenance, and readiness checks. This wet exhaust discharge is generated by injecting seawater (or harbor water) as a cooling stream into the diesel engine exhaust system. The cooling water mixes with and cools the hot exhaust gases, and is discharged primarily as a mist that disperses in the air before depositing on the surface of the water body.

All submarines generate this discharge. Diesel engines must be operated for equipment checks that occur prior to submarine deployment, monthly availability assurance, and periodic trend analyses. On average, each submarine will operate the diesel engine for approximately 60 hours/year while within 12 n.m. from shore. Most of the operating time (54 hours/year) occurs while the submarine is pierside.

Typical constituents of diesel engine exhaust include various hydrocarbon combustion by-products, measured as volatile and semi-volatile organic compounds. The priority pollutants expected to be present in the discharge include polycyclic aromatic hydrocarbons (PAHs), toluene, and possibly metals. Although no individual pollutant exceeds water quality criteria, the total concentration of PAHs in the discharge is predicted to exceed State acute water quality criteria. Nevertheless, the discharge of PAHs is unlikely to cause adverse impacts on the marine environment because the total fleetwide annual mass loading of PAHs is calculated to be less than 0.06 pounds per year. Therefore, EPA and DOD determined that it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for submarine diesel engine wet exhaust.

14. Submarine Outboard Equipment Grease and External Hydraulics

This discharge occurs when grease applied to a submarine's outboard equipment is released to the environment through the mechanical action of seawater eroding the grease layer while the submarine is underway, and by the slow dissolution of the grease into the seawater. This discharge also includes any hydraulic oil that may leak past the seals of hydraulically-operated external components of a submarine (e.g., bow planes).

Outboard equipment grease is discharged by all submarines, but the discharge of oil from external hydraulic equipment is limited to 22 submarines. This discharge occurs continuously both within and beyond 12 n.m. from shore, although the rate of discharge depends upon the degree of contact between seawater and the greased outboard components, and how fast the submarine is traveling. Most hydraulically-operated outboard equipment, for example, does not contact seawater within 12 n.m. from shore because submarines generally operate on the surface in this region, and the hydraulically-operated equipment producing this discharge is located mostly above the waterline.

This discharge consists of grease (Termalene #2) and hydraulic oil. Termalene #2 consists of mineral oil, a calcium-based rust inhibitor, thickening agents, an antioxidant, and dye. Using

an assumption that 100 percent of all grease applied to outboard equipment is washed away at a constant rate during submarine operations, the amount of grease released fleetwide within 12 n.m. is approximately 520 lbs/year. This value is believed to overstate the actual mass of grease discharged within 12 n.m. because submarines operate at lower rates of speed in coastal waters (thus leading to less erosion of the grease) and a surfaced submarine exposes a lesser amount of grease to the water than is exposed by a submerged submarine.

Hydraulic oil consists of paraffinic distillates and additives. Using a calculation that assumes all hydraulic system seals leak oil at the maximum allowable leak rate, approximately 0.4 lbs/year of hydraulic oil is released fleetwide within 12 n.m. from shore. (Based on discussions with Navy hydraulic system experts, such oil leakage rates are not common and thus this calculation overestimates the amount of oil actually leaked.) The submarine will displace approximately 120 million cubic feet of water as it travels within 12 n.m. from shore. Assuming that hydraulic oil and outboard grease are leaked at a constant rate, this will result in concentrations below the levels established in acute Federal criteria and State acute water quality criteria.

In addition, the turbulence created by the vessel wake is expected to result in rapid dispersion of the constituents released. As a result, the submarine outboard equipment grease and external hydraulics discharge has low potential for causing adverse environmental effects. EPA and DOD determined it is not reasonable and practicable to require a MPCD to mitigate adverse impacts on the marine environment for this discharge.

VI. Section-By-Section Analysis of the Regulation

A. Subpart A—Scope

Section 1700.1 Applicability

Section 1700.2 Effect

This rule proposes how discharges incidental to the normal operation of Armed Forces vessels would be controlled within the navigable waters of the United States and the waters of the contiguous zone. The rule would apply to owners and operators of Armed Forces vessels. This rule would not apply to commercial and privately owned vessels.

The rule also would preempt States and political subdivisions of States from regulating these discharges, except that States may establish a no-discharge zone or apply to EPA for a no-discharge zone. Federal standards of performance for each required Marine Pollution Control Device will be published in § 1700.14 of this part after the completion of Phase II of UNDS.

Section 1700.3 Definitions

The definitions in the proposed rule are based on definitions in the Clean Water Act (CWA).

The proposed regulatory definition of "Armed Forces vessel" is based on the statutory definition of "vessel of the Armed Forces" in CWA section 312(a)(14), which includes vessels owned or operated by the Department of Defense, as well as vessels owned or operated by the Department of Transportation that are designated by the Secretary of the department in which the U.S. Coast Guard is operating as operating equivalently to Department of Defense vessels. At present, the U.S. Coast Guard is operating in the Department of Transportation. The Secretary of Transportation has determined that U.S. Coast Guard vessels operate equivalently to vessels of the Department of Defense, and therefore are included in the proposed regulatory definition of "Armed Forces vessel." Armed Forces vessels are discussed in section III of this preamble.

CWA section 312(n) applies to "discharges, other than sewage, incidental to the normal operation of a vessel of the Armed Forces." The proposed regulatory definition of "discharge incidental to the normal operation of a vessel" is based on the statutory definition (see CWA section 312(a)(12)(A)), which includes incidental discharges, other than sewage, whenever a vessel is waterborne. If a vessel is not waterborne (e.g., the vessel is in drydock), its discharges would not be covered by this rule; instead these discharges would be covered under the facility's drydock NPDES permit. Discharges not incidental to the normal operation of a vessel, such as those resulting from an emergency situation or unavoidable accident, also would not be covered by this rule. Discharges containing source, special nuclear, or byproduct materials are regulated by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, and are excluded from regulation under the CWA. Therefore these discharges would not be covered by this rule.

CWA section 312(a)(12)(B) specifically excludes from the definition of discharge incidental to the normal operation of a vessel, and thus from the UNDS program, certain types of discharges. First, incidental discharges do not include discharges of rubbish, trash, garbage, or other such material discharged overboard. Shipboard solid waste, including pulper discharges, is regulated separately under the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. 1901 *et seq.*, which requires public vessels, including warships, to comply with the requirements of Annex V of the Convention to Prevent Pollution from Ships (MARPOL) for shipboard solid waste. Each branch of the Armed Forces and the Coast Guard has developed regulations, separate from UNDS, to implement the requirements of APPS for their vessels.

Second, incidental discharges do not include air emissions resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator.

Third, incidental discharges do not include any discharges not covered by 40 CFR 122.3 (as in effect of February 10, 1996). This section of the CFR lists discharges that are excluded from National Pollutant Discharge Elimination System (NPDES) permit requirements, such as discharges incidental to the normal operation of a vessel. In other words, UNDS covers discharges that are excluded by EPA in 40 CFR 122.3.

By enacting CWA section 312(n), Congress has chosen to regulate discharges from Armed Forces vessels through uniform national discharge standards, rather than by NPDES permits. This is supported by the statutory change in CWA section 502(c) specifically excluding from the definition of "pollutant" any discharges incidental to the normal operation of Armed Forces vessels. Therefore, after a discharge incidental to the normal operation of an Armed Forces vessel is determined not to require control, or after the regulations for the use of MPCDs for controlled discharges are implemented (in Phase III of UNDS), Armed Forces vessels would not be required to obtain or comply with NPDES permits for those discharges.

Although discharges incidental to the normal operation of a vessel are excluded from NPDES requirements under 40 CFR 122.3, that exclusion does not include discharges when a vessel is operating in a capacity other than as a means of transportation, such as when used as a mining facility or seafood processing facility. EPA and DOD do not believe, however, that Congress intended the UNDS program to be limited to Armed Forces vessels only when they are under power. Rather, the purpose of CWA section 312(n)—to enhance the operational flexibility of Armed Forces vessels by avoiding the

problems caused by subjecting these vessels to varying State regulation under the CWA—and its legislative history, clearly indicate congressional intent that this program be comprehensive with respect to these discharges. This intent would not be met if Armed Forces vessels were subject to UNDS technology standards only when under power but then subject to State permitting requirements when they are docked for any period of time, especially when the State standards could be very different from the UNDS standards and would vary from State to State. Indeed, this is the very situation Congress was intending to remedy by prohibiting States from adopting or enforcing regulations affecting discharges covered by UNDS. Therefore, discharges incidental to the normal operation of Armed Forces vessels include incidental discharges whenever a vessel is waterborne, including pierside.

By enacting CWA section 312(n), Congress has chosen to regulate discharges from Armed Forces vessels through uniform national discharge standards, rather than by NPDES permits. Congress made no such statements and passed no legislation regarding commercial and private vessels, and the distinction in 40 CFR 122.3 between discharges from a vessel "when it is operating as a means of transportation" and when it is not remains unchanged for those vessels.

Finally, under CWA section 312(n)(6)(B), this rule would not affect the application of CWA section 311 to discharges incidental to the normal operation of Armed Forces vessels.

No-discharge zone is defined in the proposed rule as an area of water into which one or more specified discharges incidental to the normal operation of Armed Forces vessels, whether treated or not, are prohibited. No-discharge zones are identified and established following the requirements in §§ 1700.7 to 1700.10 of this proposed rule.

B. Subpart B—Discharge Determinations

Section 1700.4 Discharges Requiring Control

Section 1700.5 Discharges Not Requiring Control

Information on vessel discharges was gathered as described in section IV, above. The decision methodology described in section V.A was used to determine which discharges require control (described in section V.C) and which discharges do not require control (described in section V.D).

C. Subpart C—Effect on States

Section 1700.6 Effect on State and Local Statutes and Regulations

There are two types of discharges identified in today's proposed rule—those that would require control (listed in § 1700.4) and those that would not require control (listed in § 1700.5). The effect of today's proposed rule on State and local statutes and regulations depends on the type of discharge.

After final promulgation of this rule, neither States nor political subdivisions of States would be able to adopt or enforce any State or local statutes or regulations controlling a discharge that will not require control (listed in § 1700.5). However, States would be able to establish a no-discharge zone by State prohibition (following the provisions of § 1700.9), or apply for a no-discharge zone by EPA prohibition (following the provisions of § 1700.10), for these discharges.

After final promulgation of this rule, States also would be able to apply for a no-discharge zone by EPA prohibition (following the provisions of § 1700.10) for discharges that will require control (listed in § 1700.4). Note that States and their political subdivisions will not be prohibited from controlling discharges listed in § 1700.4 by State or local statute or regulation until after regulations governing the design, construction, installation, and use of the MPCDs are promulgated (i.e., the third phase of UNDS is completed). However, EPA and DOD recommend that States and political subdivisions coordinate their actions with EPA and DOD such that any interim requirements would be consistent with the final Phase III regulations. After Phase III regulations are issued by the Secretary, States and political subdivisions will not be able to adopt or enforce any State of local statute or regulation controlling discharges listed in § 1700.4 except to establish a no-discharge zone by State or EPA prohibition.

States and their political subdivisions will not be prohibited from regulating any discharge that is not listed in either § 1700.4 or § 1700.5.

This rule also proposes the requirements for a State to petition the Administrator and the Secretary to review whether a discharge should require control by a MPCD, or to review a Federal standard of performance for a MPCD (§§ 1700.11 to 1700.13).

Section 1700.7 No-discharge Zones

For this part, a no-discharge zone is a waterbody, or portion thereof, where one or more incidental discharges from Armed Forces vessels, whether treated or not, are prohibited. No-discharge zones are established on the basis of a need to provide additional environmental protection for the designated area of water. A no-discharge zone may be established by either State prohibition (see proposed § 1700.9) or EPA prohibition (see proposed § 1700.10). The most significant difference between the two prohibitions is that in a State prohibition, adequate facilities for the safe and sanitary removal of the prohibited discharge must be reasonably available. In an EPA prohibition, adequate collection facilities are not necessary if EPA determines, following consultation with the Secretary, that the significance of the waters and the potential impact of the discharge are of sufficient magnitude to warrant any resulting constraints on Armed Forces vessels. The purpose for this difference, which was established initially in section 312 of the CWA to apply to discharges from vessel marine sanitation devices, is to provide the opportunity for States to seek additional protection for waterbodies even where collection facilities for the discharge may not be available.

The process for establishing an EPA prohibition is different from the process for establishing a State prohibition, including the requirement for the no-discharge zone to be established through rulemaking rather than by a State statute or regulation. Another difference is that for a State prohibition, the determination that greater protection of the waters is necessary is made by the State; for an EPA prohibition, this determination is made by EPA.

Armed Forces vessels must comply with State and EPA prohibitions, except where the Secretary finds that compliance would not be in the interest of national security (CWA section 312(n)(1)).

Section 1700.8 Discharges for Which No-discharge Zones Can Be Established

After the final promulgation of this rule, no-discharge zones may be established by State or EPA prohibition for any discharge identified as not requiring control (listed in § 1700.5).

After the final promulgation of this rule, no-discharge zones can be established by EPA prohibition for any discharge identified as requiring control (listed in § 1700.4). States will not be preempted from regulating or prohibiting these discharges until after the Secretary identifies design, construction, installation, and operation standards for MPCDs (i.e., after the third phase of UNDS is complete). After the third phase is complete, States wanting

to establish a no-discharge zone by State prohibition for the discharges listed in § 1700.4 must use the procedures in this part.

Section 1700.9 No-discharge Zones by State Prohibition

For a State to establish a no-discharge zone to prohibit one or more Armed Forces discharges from a specified waterbody or portion of a waterbody, several determinations, as specified by section 312(n)(7)(A) of the CWA, must be made. The State must determine that protection and enhancement of the waters of interest require greater environmental protection than provided by UNDS. EPA must determine that: (1) adequate facilities for the safe and sanitary removal of the discharge incidental to the normal operation of Armed Forces vessels are reasonably available for the waters being protected; and (2) the prohibition will not have the effect of discriminating against an Armed Forces vessel by reason of the ownership or operation by the Federal government, or the military function, of the vessel. In making its determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of any prohibition on Armed Forces vessels.

A State must provide EPA with enough information, as set forth in § 1700.9(a), to make the determinations listed above. This information is consistent with the information required for establishing a State prohibition for sewage discharges as provided in 40 CFR part 140. The required information must include:

(1) The discharge from § 1700.4 or § 1700.5 of this part to be prohibited within the no-discharge zone. An area can be designated as a no-discharge zone for more than one discharge, and this may be done in a single request, but all information required must be presented separately for each discharge.

(2) A detailed description of the waters, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A determination that the protection and enhancement of the waters described require greater environmental protection than provided by existing Federal standards. The determination should present an argument that the proposed area is in need of greater environmental protection, and a rationale indicating the justification for the no-discharge zone.

(4) A complete description of the facilities available for collecting the discharge. The State must provide a map showing the location(s) and provide a written location description of the facilities, a demonstration that the facilities have the capacity to manage the volume of discharge being prohibited in terms of both vessel berthing and discharge reception, the schedule of operating hours of the facilities, the draft requirements of the vessels that will be required to use the facilities and the available water depth at the facilities, and information showing that handling of the discharge at the facilities is in conformance with Federal law. Information on Armed Forces vessel population and usage of an area and on existing Armed Forces collection facilities may be obtained from the Office of the Chief of Naval Operations, Environmental Protection, Safety and Occupational Health Division, N45, Washington DC, 20350–2000. Information on the amount of discharge expected from Armed Forces vessels may be obtained from the Technical Development Document available in the docket for this rulemaking, or by contacting the Office of the Chief of Naval Operations.

(5) Information on whether the prohibition would be applied to all vessels in the area, and, if not, documentation of the technical or environmental basis for applying the prohibition only to Armed Forces vessels. Documentation on a technical or environmental basis for applying the prohibition only to Armed Forces vessels must include an analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels, and a description of State efforts to control the discharge from non-Armed Forces vessels. EPA is asking for information on vessels other than those of the Armed Forces only in order to determine whether there is discrimination against Armed Forces vessels based on their Federal ownership or operation, or military function, and not because it is approving the prohibition with respect to these other vessels.

The first determination to be made by EPA—that adequate collection facilities are reasonably available—will be based upon a finding that the capacity of existing facilities is sufficient to handle the number of vessels and the quantity of discharge produced.

The second determination to be made by EPA—that the prohibition will not have the effect of discriminating against Armed Forces vessels by reason of Federal ownership or operation, or military function—may be based upon a showing that (1) the prohibition will be applied to all vessels (not just vessels of the Armed Forces); or (2) any distinction between Armed Forces vessels and other vessels is based on valid environmental or technical reasons. For example, if a discharge is produced only by Armed Forces vessels, this could be an acceptable technical basis for such a distinction.

If EPA determines that adequate facilities are reasonably available and that the prohibition would not discriminate against Armed Forces vessels by reason of Federal ownership or operation, or military function, the State may promulgate the no-discharge zone as a State statute or regulation, which will be binding on the vessels of the Armed Forces to which UNDS applies.

Section 1700.10 No-discharge Zones by EPA Prohibition

For EPA to establish a no-discharge zone to prohibit one or more Armed Forces discharges from a specified waterbody or portion of a waterbody, several determinations, as specified by section 312(n)(7)(B) of the CWA, must be made. Although these determinations are similar to those for a State prohibition, there are three differences: (1) EPA rather than the State must determine that the protection and enhancement of the specified waters require a prohibition; (2) EPA can not disapprove an application for an EPA prohibition for the sole reason that adequate collection facilities are not available; and (3) EPA must establish the no-discharge zone by rulemaking. In making its determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of any prohibition on Armed Forces vessels.

For EPA to make the determinations required by the legislation and establish the no-discharge zone, a State must provide an application to EPA including the information set forth in § 1700.10(a). The information required in the application is consistent with the application requirements for requesting an EPA prohibition for sewage discharges as provided in 40 CFR part 140. The application must include:

(1) The discharge from § 1700.4 or § 1700.5 of this part to be prohibited within the no-discharge zone. An area can be designated as a no-discharge zone for more than one discharge, and this may be done in a single request, but all information required must be presented separately for each discharge.

(2) A detailed description of the waters, or portions thereof, to be included in the prohibition. The

description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A technical analysis demonstrating the need for protection and enhancement of the waters of the no-discharge zone beyond those protections provided by Federal regulations. The analysis must provide specific information on why the discharge adversely impacts the zone and how prohibition will protect the zone. In addition, the justification should characterize any sensitive areas, such as aquatic sanctuaries, fish-spawning and nursery areas, pristine areas, areas not meeting water quality standards, drinking water intakes, and recreational areas, that would justify an EPA prohibition. Less technical justification as to why the proposed waters need special protection will be required for an area where there is little or no anticipated Armed Forces vessel presence than for an area where the impact on Armed Forces vessels is considered likely or great.

(4) A complete description of the facilities available for collecting the discharge. The State must provide a map showing the location(s) and provide a written location description of the facilities, a demonstration that the facilities have the capacity to manage the volume of discharge being prohibited in terms of both vessel berthing and discharge reception, the schedule of operating hours of the facilities, the draft requirements of the vessels that will be required to use the facilities and the available water depth at the facilities, and information showing that handling of the discharge at the facilities is in conformance with Federal law. Information on Armed Forces vessel population and usage of an area and on existing Armed Forces collection facilities may be obtained from the Office of the Chief of Naval Operations, Environmental Protection, Safety and Occupational Health Division, N45, Washington DC, 20350–2000. Information on the amount of discharge expected from Armed Forces vessels may be obtained from the Technical Development Document available in the docket for this rulemaking, or by contacting the Office of the Chief of Naval Operations.

(5) Information on whether a similar prohibition would be applied to other vessels in the area, and, if not, documentation of the technical or environmental basis for applying the prohibition only to Armed Forces vessels. Documentation on a technical or environmental basis for applying the prohibition only to Armed Forces vessels must include an analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels, and a description of State efforts to control the discharge from non-Armed Forces vessels. EPA is asking for information on vessels other than those of the Armed Forces only in order to determine whether there is discrimination against Armed Forces vessels based on their Federal ownership or operation, or military function, and not because it is approving the prohibition with respect to these other vessels.

In considering a no-discharge zone application under this section, EPA must determine whether adequate facilities for the safe and sanitary removal of the discharge are available. However, the statute directs that EPA shall not disapprove an application under this section for the sole reason that there are not adequate facilities. If adequate facilities are not available, EPA may approve the application but delay the effective date of the prohibition or place other conditions on the prohibition that will provide an opportunity for adequate facilities to become available. EPA may also approve the application without facilities if it determines that the significance of the waters and the potential impact of the discharge are of sufficient magnitude to warrant the resulting constraints on Armed Forces vessels. Such a finding would depend on many factors including the size, shape, and location of the area, the nature and amount of the discharge, and the types of Armed Forces vessels that use the area and their missions. EPA will only make such a determination after careful consultation with the Secretary.

EPA will make a determination regarding the need for additional protection or enhancement of the waters; the availability of adequate collection facilities for vessels of the Armed Forces, or whether, in the absence of available facilities, a prohibition is warranted; and whether the no-discharge zone discriminates against vessels of the Armed Forces. If the EPA prohibition is approved, EPA will establish the no-discharge zone by regulation. When the rule goes into effect, it will be binding on the vessels of the Armed Forces to which UNDS applies.

Section 1700.11 State Petition for Review of Determinations or Standards

Section 312(n)(5)(D) of the CWA authorizes the Governor of any State to submit a petition to the Administrator and the Secretary requesting the re-evaluation of whether a discharge requires control, as identified in this rule, or the re-evaluation of a performance standard established for a discharge requiring control, as identified in the second phase of UNDS. Until performance standards are established in rulemaking, petitions can only be submitted for review of determinations of whether the discharge requires control.

Section 1700.12 Petition Requirements

Section 312(n)(5)(D) of the CWA allows States to submit a petition when there is new, significant information not considered previously that could result in a change to a determination or standard after consideration of the seven factors in the legislation. Any petition for re-evaluation of a determination or standard must include:

(a) The discharge from § 1700.4 or § 1700.5 of this part for which a change in determination is requested, or the performance standard from § 1700.14 of this part for which review is requested.

(b) The scientific and technical information on which the petition is based. Because such a decision will have national implications, the data must be sufficient to support a finding that it is appropriate to change the determination or standard on a nation-wide basis. For this reason, any petition must include or cite to the scientific and technical information on which the petition is based. If the results of field work are submitted, information should be included on the quality assurance and quality control procedures used.

(c) A detailed explanation of how the technical information presented affects the previous determination or standard. The explanation shall take into account the seven factors identified in the UNDS legislation and listed previously in this preamble.

Section 1700.13 Petition Decisions

Section 312(n)(5)(D) of the CWA requires the Administrator and the Secretary to evaluate the petition and grant or deny the petition no later than two years after receiving the petition. If the Administrator and Secretary grant the petition, they will undertake rulemaking to amend the necessary sections of part 1700.

D. Subpart D—MPCD Performance Standards

Section 1700.14 Marine Pollution Control Device (MPCD) Performance Standards

This section is reserved. No performance standards are being proposed in this rulemaking. MPCD

performance standards for discharges requiring control will be promulgated by the Administrator and Secretary in § 1700.14 of this rule at the completion of the second phase of UNDS.

VII. Related Acts of Congress and Executive Orders

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), EPA and DOD must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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

B. Unfunded Mandates Reform Act and Executive Order 12875

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. Thus today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant intergovernmental mandates, and informing, educating, and advising small governments on compliance with regulatory requirements. As this rule would not impose any mandate on small governments, this rule is not significant as that term applies under Section 203 of the UMRA. This rule does not uniquely affect small governments because the preemption that occurs after promulgation of this rule applies to both large governments (States) as well as small governments. Further, the preemption originates from the CWA rather than this rule. Finally, the no-discharge zone procedures in the rule would apply only to States, not small governments. Thus, this rule would not significantly or uniquely affect small governments and Section 203 of the UMRA does not apply. Nevertheless, as described elsewhere in this preamble and in the record for the rule, DOD and EPA sought meaningful and timely input from States and localities on this proposed rule.

Executive Order 12875 requires that, to the extent feasible and permitted by law, no Federal agency shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless funds necessary to pay the direct costs incurred by the State, local, or tribal government in complying with the mandate are provided by the Federal government or that the Agency provide OMB certain information about its outreach efforts. As described above this rule contains no Federal mandates. It imposes no enforceable duty on any State, local, or tribal government. Thus, Executive Order 12875 does not apply to this rulemaking.

C. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA and DOD generally are required to prepare an initial Regulatory Flexibility Analysis describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if the Administrator of EPA or the Secretary of DOD certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA and DOD are not required to prepare a Regulatory Flexibility Analysis. The RFA recognizes three kinds of small entities, and defines them as follows: (1) Small governmental jurisdictions: any government of a district with a population of less than 50,000; (2) Small business: any business which is independently owned and operated and not dominant in its field, as defined by the Small Business Administration regulations under the Small Business Act; and (3) Small organization: any not for profit enterprise that is independently owned and operated and not dominant in its field. This proposed Phase I rule would address discharges from vessels of the Armed Forces and proposes information collection requirements on States that wish to establish no-discharge zones or petition the Secretary of Defense and the Administrator to review a determination regarding the need for a marine pollution control device or a standard issued under Phase II of the rule. Small entities are not affected by this rule. Therefore, pursuant to section 605(b) of the RFA, the Administrator and the Secretary certify that this proposed Phase I rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements in this proposed Phase I rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No.1791.02, amending the collection with OMB control # 2040–0187) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S.

Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr.

There are three information collections associated with this rule, each of which is required by statute in order for a State to obtain a benefit. Each information collection is discussed separately below (including authority and projected annual hour and cost burdens). The total projected annual hour burden for all three information collections is 958 hours; the projected annual cost burden is $31,871.

In order for a State to establish a No-discharge Zone (NDZ) by State prohibition, EPA must make the following determinations: (i) that adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (ii) that the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel (see CWA section 312(n)(7)(A), 33 U.S.C. 1322(n)(7)(A)). The State must provide EPA enough information to be able to make those determinations. The specific information being requested is listed in proposed 40 CFR 1700.9(a). The information requested from the State will be used by EPA to make the determinations it is required to make by law in order for a State prohibition to be effective.

The projected annual hour burden for requests by a State to EPA to make the determinations required for the State to establish a NDZ by State prohibition is 717 hours (with an average of 179.25 burden hours per response and an estimated 4 respondents per year). The projected annual cost burden is $23,815 (with an average of $23,215 for labor, $0 for capital and start-up costs, $600 for operation and maintenance, and $0 for the purchase of services).

In order for EPA to establish a NDZ by EPA prohibition (upon application of a State), EPA must make the following determinations: (i) that the protection and enhancement of the quality of the specified waters require a prohibition of the discharge; (ii) that adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (iii) that the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel (see CWA section 312(n)(7)(B), 33 U.S.C. 1322(n)(7)(B)). The State must provide EPA enough information to be able to make those determinations. The specific information being requested is listed in proposed 40 CFR 1700.10(a). The information requested from the State will be used by EPA to make the determinations it is required to make by law in order to establish a NDZ.

The projected annual hour burden for applications by a State to EPA to establish a NDZ by EPA prohibition is 194.25 hours (with an average of 194.25 burden hours per response and an estimated 1 respondent per year). The projected annual cost burden is $6,478 (with an average of $6,328 for labor, $0 for capital and start-up costs, $150 for operation and maintenance, and $0 for the purchase of services).

The Governor of any State may request EPA and the Secretary of Defense to review (i) a determination of whether an UNDS discharge requires a control, or (ii) a standard of performance for a control on an UNDS discharge, by submitting a petition which discusses significant new scientific and technical information that could reasonably result in a change to the determination or standard (see CWA section 312(n)(5)(D), 33 U.S.C. 1322(n)(5)(D)). The State must provide EPA this information and a discussion of how the information is relevant to one or more of the seven factors which EPA and the Secretary of Defense are required to consider in making these determinations and standards (see CWA section 312(n)(2)(B), 33 U.S.C. 1322(n)(2)(B)). These requirements are listed in proposed 40 CFR 1700.12. The information requested from the State will be used by EPA and the Secretary of Defense in order to review any determinations and standards promulgated under UNDS.

The projected annual hour burden for petitions from a State to EPA and DOD to review a determination or standard is 46.25 hours (with an average of 46.25 burden hours per response and an estimated 1 respondent per year). The projected annual cost burden is $1,578 (with an average of $1,428 for labor, $0 for capital and start-up costs, $150 for operation and maintenance, and $0 for the purchase of services).

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.

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.

Comments are requested 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. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 25, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by September 24, 1998. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Executive Order 13045

On April 23, 1997, the President issued Executive Order 13045 entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885). The Executive Order applies to any rule that EPA determines (1) "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 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 proposed Phase I rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866.

F. Endangered Species Act

EPA and DOD have discussed the applicability of the Endangered Species Act (ESA) to the three phases of the Uniform National Discharge Standards rulemaking. As Phase I is a preliminary step, simply identifying the discharges that will require control and the discharges that will not require control, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have agreed that the consultation requirements of section 7 of the ESA do not apply to Phase I. Instead, EPA and DOD will initiate consultation during Phase II of the UNDS rulemaking, which will establish performance standards for the discharges identified in Phase I as requiring control.

G. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), EPA and DOD are required to use voluntary consensus standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA or DOD, the Act requires the Agency and Department to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

EPA and DOD do not believe that this proposed Phase I rule addresses any technical standards subject to the NTTAA. It simply addresses which discharges would or would not require a MPCD. A commenter who disagrees with this conclusion should indicate how the notice is subject to the Act and identify any potentially applicable voluntary consensus standards.

Appendix A to the Preamble—Abbreviations, Acronyms, and Other Terms Used in This Document

Administrator—The Administrator of the U.S. Environmental Protection Agency
AFFF—Aqueous film-forming foam
CFR—U.S. Code of Federal Regulations
CPO—Chlorine-produced oxidants
CPP—Controllable pitch propeller
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*)
CWA—Clean Water Act
DOD—U.S. Department of Defense
EPA—U.S. Environmental Protection Agency
ICCP—Impressed current cathodic protection
LCAC—Air-cushion landing craft
LCU—Utility landing craft
MPCD—Marine pollution control device
MSC—Military Sealift Command
n.m.—Nautical miles
No-discharge zone—An area of water into which one or more specified discharges is prohibited, as established under procedures set forth in proposed 40 CFR 1700.7 to 1700.10
NPDES—National Pollutant Discharge Elimination System
OCM—Oil content monitor
OWS—Oil-water separator psi—Pounds per square inch
Secretary—The Secretary of the U.S. Department of Defense
TBT—Tributyl tin
USDA—U.S. Department of Agriculture
UNDS—Uniform national discharge standards

List of Subjects in 40 CFR Part 1700

Environmental protection, Armed Forces, Coastal zone, Vessels, Water pollution control.

Dated: August 11, 1998.

Carol M. Browner,

Administrator, Environmental Protection Agency.

Dated: August 4, 1998.

Robert B. Pirie, Jr.,

Assistant Secretary of the Navy (Installations and Environment).

For the reasons set forth in the preamble, EPA and DOD propose to establish a new chapter VII in title 40 of the Code of Federal Regulations consisting at this time of part 1700 to read as follows:

CHAPTER VII—ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF DEFENSE

PART 1700—UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES

Subpart A—Scope

Sec.
1700.1 Applicability.
1700.2 Effect.
1700.3 Definitions.

Subpart B—Discharge Determinations

1700.4 Discharges requiring control.
1700.5 Discharges not requiring control.

Subpart C—Effect on States

1700.6 Effect on State and local statutes and regulations.

No-Discharge Zones

1700.7 No-discharge zones.
1700.8 Discharges for which no-discharge zones can be established.
1700.9 No-discharge zones by State prohibition.
1700.10 No-discharge zones by EPA prohibition.

State Petition for review

1700.11 State petition for review of determinations or standards.
1700.12 Petition requirements.
1700.13 Petition decisions.

Subpart D—Marine Pollution Control Device (MPCD) Performance Standards

1700.14 Marine Pollution Control Device (MPCD) Performance Standards. [reserved]

Authority: 33 U.S.C. 1322, 1361.

PART 1700—UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES

Subpart A—Scope

§ 1700.1 Applicability.

(a) This part applies to the owners and operators of Armed Forces vessels, except where the Secretary of Defense finds that compliance with this part is not in the interest of the national security of the United States. This part does not apply to vessels while they are under construction, vessels in drydock, amphibious vehicles, or vessels under the jurisdiction of the Department of Transportation other than those of the Coast Guard.

(b) This part also applies to States and political subdivisions of States.

§ 1700.2 Effect.

(a) This part identifies those discharges, other than sewage, incidental to the normal operation of Armed Forces vessels that require control within the navigable waters of the United States and the waters of the contiguous zone, and those discharges that do not require control. Discharges requiring control are identified in § 1700.4. Discharges not requiring control are identified in § 1700.5. Federal standards of performance for each required Marine Pollution Control Device are listed in § 1700.14. This part is not applicable beyond the contiguous zone.

(b) This part prohibits States and their political subdivisions from adopting or enforcing State or local statutes or regulations controlling the discharges from Armed Forces vessels listed in §§ 1700.4 and 1700.5 according to the timing provisions in § 1700.6, except to establish a no-discharge zone by State prohibition in accordance with § 1700.9, or to apply for a no-discharge zone by

EPA prohibition in accordance with § 1700.10. This part also provides a mechanism for States to petition the Administrator and the Secretary to review a determination of whether a discharge requires control, or to review a Federal standard of performance for a Marine Pollution Control Device, in accordance with §§ 1700.11 through 1700.13.

§ 1700.3 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency or that person's authorized representative.

Armed Forces vessel means a vessel owned or operated by the United States Department of Defense or the United States Coast Guard, other than vessels that are time or voyage chartered by the Armed Forces, vessels of the U.S. Army Corps of Engineers, or vessels that are memorials or museums.

Discharge incidental to the normal operation of a vessel means a discharge, including, but not limited to: graywater, bilgewater, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of a vessel; and a discharge in connection with the testing, maintenance, and repair of any of the aforementioned systems whenever the vessel is waterborne, including pierside. A discharge incidental to normal operation does not include:

(1) Sewage;

(2) A discharge of rubbish, trash, or garbage;

(3) A discharge of air emissions resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator;

(4) A discharge that requires a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act; or

(5) A discharge containing source, special nuclear, or byproduct materials regulated by the Atomic Energy Act.

Environmental Protection Agency, abbreviated EPA, means the United States Environmental Protection Agency.

Marine Pollution Control Device, abbreviated MPCD, means any equipment or management practice installed or used on an Armed Forces vessel that is designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel, and that is determined by the Administrator and Secretary to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations in Clean Water Act section 312(n)(2)(B).

No-discharge zone means an area of specified waters established pursuant to this regulation into which one or more specified discharges incidental to the normal operation of Armed Forces vessels, whether treated or untreated, are prohibited.

Secretary means the Secretary of the United States Department of Defense or that person's authorized representative.

United States includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on navigable waters of the United States or waters of the contiguous zone, but does not include amphibious vehicles.

Subpart B—Discharge Determinations

§ 1700.4 Discharges requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is reasonable and practicable to require use of a Marine Pollution Control Device for at least one class of vessel to mitigate adverse impacts on the marine environment:

(a) Aqueous Film-Forming Foam: the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations.

(b) Catapult Water Brake Tank & Post-Launch Retraction Exhaust: the oily water skimmed from the water tank used to stop the forward motion of an aircraft carrier catapult, and the condensed steam discharged when the catapult is retracted.

(c) Chain Locker Effluent: the accumulated precipitation and seawater that is emptied from the compartment used to store the vessel's anchor chain.

(d) Clean Ballast: the seawater taken into, and discharged from, dedicated ballast tanks to maintain the stability of the vessel and to adjust the buoyancy of submarines.

(e) Compensated Fuel Ballast: the seawater taken into, and discharged from, ballast tanks designed to hold both ballast water and fuel to maintain the stability of the vessel.

(f) Controllable Pitch Propeller Hydraulic Fluid: the hydraulic fluid that discharges into the surrounding seawater from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers.

(g) Deck Runoff: the precipitation, washdowns, and seawater falling on the weather deck of a vessel and discharged overboard through deck openings.

(h) Dirty Ballast: the seawater taken into, and discharged from, empty fuel tanks to maintain the stability of the vessel.

(i) Distillation and Reverse Osmosis Brine: the concentrated seawater (brine) produced as a byproduct of the processes used to generate freshwater from seawater.

(j) Elevator Pit Effluent: the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels.

(k) Firemain Systems: the seawater pumped through the firemain system for firemain testing, maintenance, and training, and to supply water for the operation of certain vessel systems.

(l) Gas Turbine Water Wash: the water released from washing gas turbine components.

(m) Graywater: galley, bath, and shower water, as well as wastewater from lavatory sinks, laundry, interior deck drains, water fountains, and shop sinks.

(n) Hull Coating Leachate: the constituents that leach, dissolve, ablate, or erode from the paint on the hull into the surrounding seawater.

(o) Motor Gasoline and Compensating Discharge: the seawater taken into, and discharged from, motor gasoline tanks to eliminate free space where vapors could accumulate.

(p) Non-oily machinery wastewater: the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, and propulsion engine jacket coolers.

(q) Photographic Laboratory Drains: the laboratory wastewater resulting from processing of photographic film.

(r) Seawater Cooling Overboard Discharge: the discharge of seawater from a dedicated system that provides noncontact cooling water for other vessel systems.

(s) Seawater Piping Biofouling Prevention: the discharge of seawater containing additives used to prevent the growth and attachment of biofouling organisms in dedicated seawater cooling systems on selected vessels.

(t) Small Boat Engine Wet Exhaust: the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine.

(u) Sonar Dome Discharge: the leaching of antifoulant materials into the surrounding seawater and the release of seawater or freshwater retained within the sonar dome.

(v) Submarine Bilgewater: the wastewater from a variety of sources that accumulates in the lowest part of the submarine (i.e., bilge).

(w) Surface Vessel Bilgewater/Oil-Water Separator Effluent: the wastewater from a variety of sources that accumulates in the lowest part of the vessel (the bilge), and the effluent produced when the wastewater is processed by an oil water separator.

(x) Underwater Ship Husbandry: the materials discharged during the inspection, maintenance, cleaning, and repair of hulls performed while the vessel is waterborne.

(y) Welldeck Discharges: the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck.

§ 1700.5 Discharges not requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is not reasonable or practicable to require use of a Marine Pollution Control Device to mitigate adverse impacts on the marine environment:

(a) Boiler Blowdown: the water and steam discharged when a steam boiler is blown down, or when a steam safety valve is tested.

(b) Catapult Wet Accumulator Discharge: the water discharged from a catapult wet accumulator, which stores a steam/water mixture for launching aircraft from an aircraft carrier.

(c) Cathodic Protection: the constituents released into surrounding water from sacrificial anode or impressed current cathodic hull corrosion protection systems.

(d) Freshwater Lay-up: the potable water that is discharged from the seawater cooling system while the vessel is in port, and the cooling system is in lay-up mode (a standby mode where seawater in the system is replaced with potable water for corrosion protection).

(e) Mine Countermeasures Equipment Lubrication: the constituents released into the surrounding seawater by erosion or dissolution from lubricated mine countermeasures equipment when the equipment is deployed and towed.

(f) Portable Damage Control Drain Pump Discharge: the seawater pumped through the portable damage control drain pump and discharged overboard during testing, maintenance, and training activities.

(g) Portable Damage Control Drain Pump Wet Exhaust: the seawater mixed and discharged with portable damage control drain pump exhaust to cool the exhaust and quiet the engine.

(h) Refrigeration and Air Conditioning Condensate: the drainage of condensed moisture from air conditioning units, refrigerators, freezers, and refrigerated spaces.

(i) Rudder Bearing Lubrication: the oil or grease released by the erosion or dissolution from lubricated bearings that support the rudder and allow it to turn freely.

(j) Steam Condensate: the condensed steam discharged from a vessel in port, where the steam originates from port facilities.

(k) Stern Tube Seals and Underwater Bearing Lubrication: the seawater pumped through stern tube seals and underwater bearings to lubricate and cool them during normal operation.

(l) Submarine Countermeasures Set Acoustic Launcher Discharge: the seawater that is mixed with acoustic countermeasure device propulsion gas following a countermeasure launch that is then exchanged with surrounding seawater, or partially drained when the launch assembly is removed from the submarine for maintenance.

(m) Submarine Emergency Diesel Engine Wet Exhaust: the seawater that is mixed and discharged with submarine emergency diesel engine exhaust to cool the exhaust and quiet the engine.

(n) Submarine Outboard Equipment Grease and External Hydraulics: the grease released into the surrounding seawater by erosion or dissolution from submarine equipment exposed to seawater.

Subpart C—Effect on States

§ 1700.6 Effect on State and local statutes and regulations.

(a) After the effective date of a final rule determining that it is not reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge, except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(b)(1) After the effective date of a final rule determining that it is reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States may apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10) for that discharge.

(2) After the effective date of a final rule promulgated by the Secretary governing the design, construction, installation, and use of a Marine Pollution Control Device for a discharge listed in § 1700.4, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(c) The Governor of any State may submit a petition requesting that the Administrator and Secretary review a determination of whether a Marine Pollution Control Device is required for any discharge listed in § 1700.4 or § 1700.5, or review a Federal standard of performance for a Marine Pollution Control Device.

No-Discharge Zones

§ 1700.7 No-discharge zones.

For this part, a no-discharge zone is a waterbody, or portion thereof, where one or more discharges incidental to the normal operation of Armed Forces vessels, whether treated or not, are prohibited. A no-discharge zone is established either by State prohibition using the procedures in § 1700.9, or by EPA prohibition, upon application of a State, using the procedures in § 1700.10.

§ 1700.8 Discharges for which no-discharge zones can be established.

(a) A no-discharge zone may be established by State prohibition for any discharge listed in § 1700.4 or § 1700.5 following the procedures in § 1700.9. A no-discharge zone established by a State using these procedures may apply only to those discharges that have been preempted from other State or local regulation pursuant to § 1700.6.

(b) A no-discharge zone may be established by EPA prohibition for any discharge listed in § 1700.4 or § 1700.5 following the procedures in § 1700.10.

§ 1700.9 No-discharge zones by State prohibition.

(a) A State seeking to establish a no-discharge zone by State prohibition must send to the Administrator the following information:

(1) The discharge from § 1700.4 or § 1700.5 to be prohibited within the no-discharge zone.

(2) A detailed description of the waterbody, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A determination that the protection and enhancement of the waters described in paragraph (a)(2) of this section require greater environmental protection than provided by existing Federal standards.

(4) A complete description of the facilities reasonably available for collecting the discharge including:

(i) A map showing their location(s) and a written location description.

(ii) A demonstration that the facilities have the capacity and capability to provide safe and sanitary removal of the volume of discharge being prohibited in terms of both vessel berthing and discharge reception.

(iii) The schedule of operating hours of the facilities.

(iv) The draft requirements of the vessel(s) that will be required to use the facilities and the available water depth at the facilities.

(v) Information showing that handling of the discharge at the facilities is in conformance with Federal law.

(5) Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition. If the State is not applying the prohibition to all vessels in the area, the State must demonstrate the technical or environmental basis for applying the prohibition only to Armed Forces vessels. The following information must be included in the technical or environmental basis for treating Armed Forces vessels differently:

(i) An analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels.

(ii) A description of State efforts to control the discharge from non-Armed Forces vessels.

(b) The information provided under paragraph (a) of this section must be sufficient to enable EPA to make the two determinations listed below. Prior to making these determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of any prohibition on Armed Forces vessels.

(1) Adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the specified waters.

(2) The prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessels.

(c) EPA will notify the State in writing of the result of the determinations under paragraph (b) of this section, and will provide a written explanation of any negative determinations. A no-discharge zone established by State prohibition will not go into effect until EPA determines that the conditions of paragraph (b) of this section have been met.

§ 1700.10 No-discharge zones by EPA prohibition.

(a) A State requesting EPA to establish a no-discharge zone must send to the Administrator an application containing the following information:

(1) The discharge from § 1700.4 or § 1700.5 to be prohibited within the no-discharge zone.

(2) A detailed description of the waterbody, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A technical analysis showing why protection and enhancement of the waters described in paragraph (a)(2) of this section require a prohibition of the discharge. The analysis must provide specific information on why the discharge adversely impacts the zone and how prohibition will protect the zone. In addition, the analysis should characterize any sensitive areas, such as aquatic sanctuaries, fish-spawning and nursery areas, pristine areas, areas not meeting water quality standards, drinking water intakes, and recreational areas.

(4) A complete description of the facilities reasonably available for collecting the discharge including:

(i) A map showing their location(s) and a written location description.

(ii) A demonstration that the facilities have the capacity and capability to provide safe and sanitary removal of the volume of discharge being prohibited in terms of both vessel berthing and discharge reception.

(iii) The schedule of operating hours of the facilities.

(iv) The draft requirements of the vessel(s) that will be required to use the facilities and the available water depth at the facilities.

(v) Information showing that handling of the discharge at the facilities is in conformance with Federal law.

(5) Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition. If the State is not applying the prohibition to all vessels in the area, the State must demonstrate the technical or environmental basis for applying the prohibition only to Armed Forces vessels. The following information must be included in the technical or environmental basis for treating Armed Forces vessels differently:

(i) An analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels.

(ii) A description of State efforts to control the discharge from non-Armed Forces vessels.

(b) The information provided under paragraph (a) of this section must be sufficient to enable EPA to make the three determinations listed below. Prior to making these determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of the prohibition on Armed Forces vessels.

(1) The protection and enhancement of the specified waters require a prohibition of the discharge.

(2) Adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the specified waters.

(3) The prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, or the vessels.

(c) If the three conditions in paragraph (b) of this section are met, EPA will by regulation establish the no-discharge zone. If the conditions in paragraphs (b)(1) and (3) of this section are met, but the condition in paragraph (b)(2) of this section is not met, EPA may establish the no-discharge zone if it determines that the significance of the waters and the potential impact of the discharge are of sufficient magnitude to warrant any resulting constraints on Armed Forces vessels.

(d) EPA will notify the State of its decision on the no-discharge zone application in writing. If EPA approves the no-discharge zone application, EPA will by regulation establish the no-discharge zone by modification to this part. A no-discharge zone established by EPA prohibition will not go into effect until the effective date of the regulation.

State Petition for Review

§ 1700.11 State petition for review of determinations or standards.

The Governor of any State may submit a petition requesting that the Administrator and Secretary review a determination of whether a Marine Pollution Control Device is required for any discharge listed in § 1700.4 or § 1700.5, or review a Federal standard of performance for a Marine Pollution Control Device. A State may submit a petition only where there is new, significant information not considered previously by the Administrator and Secretary.

§ 1700.12 Petition requirements.

A petition for review of a determination or standard must include:

(a) The discharge from § 1700.4 or § 1700.5 for which a change in determination is requested, or the performance standard from § 1700.14 for which review is requested.

(b) The scientific and technical information on which the petition is based.

(c) A detailed explanation of why the State believes that consideration of the new information should result in a change to the determination or the standard on a nationwide basis, and an explanation of how the new information is relevant to one or more of the following factors:

(1) The nature of the discharge.

(2) The environmental effects of the discharge.

(3) The practicability of using a Marine Pollution Control Device.

(4) The effect that installation or use of the Marine Pollution Control Device would have on the operation or operational capability of the vessel.

(5) Applicable United States law.

(6) Applicable international standards.

(7) The economic costs of the installation and use of the Marine Pollution Control Device.

§ 1700.13 Petition decisions.

The Administrator and the Secretary will evaluate the petition and grant or deny the petition no later than two years after the date of receipt of the petition. If the Administrator and Secretary grant the petition, they will undertake rulemaking to amend this part. If the Administrator and Secretary deny the petition, they will provide the State with a written explanation of why they denied it.

Subpart D—Marine Pollution Control Device (MPCD) Performance Standards

§ 1700.14 Marine Pollution Control Device (MPCD) Performance Standards. [Reserved.]

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Part III

Environmental Protection Agency

Environmental Education Grants Program (FY 1999), Solicitation; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6151–7]

Solicitation Notice; Environmental Education Grants Program (Fiscal Year 1999)

Contents

Section I. Overview and Deadlines

A. Purpose of Solicitation

This document solicits grant proposals from education institutions, environmental and educational public agencies, and not-for-profit organizations to support environmental education projects, as defined in this document. This solicitation notice contains all the information and forms necessary to prepare a proposal. If your project is selected as a finalist after the evaluation process is concluded, EPA will provide you with additional forms needed to process your proposal.

The Environmental Education Grants Program provides financial support for projects which design, demonstrate, or disseminate environmental education practices, methods, or techniques. This program is authorized under section 6 of the National Environmental Education Act of 1990 (the Act) (Pub. L. 101–619). EPA anticipates funding of approximately $3 million for this annual grant cycle, subject to appropriations and the availability of funds. The Act requires that 25% of available funds go to small grants of $5,000 or less and sets a maximum limit of $250,000 for a single grant. These grants require non-federal matching funds for a minimum of 25% of the total cost of the project.

B. Environmental Education Versus Information

Environmental education: increases public awareness and knowledge about environmental issues; provides the public with the skills needed to make informed decisions and take responsible actions; enhances critical-thinking, problem-solving, and effective decision-making skills; and teaches individuals to weigh various sides of an environmental issue to make informed and responsible decisions. *Environmental education does not advocate a particular viewpoint or course of action.*

EPA will not fund projects that are solely designed to develop or disseminate environmental "information." Environmental information provides facts or opinions about environmental issues or problems, but may not enhance critical-thinking, problem-solving, or decision-making skills. Although information is an essential element of any educational effort, environmental information is not, by itself, environmental education.

C. Due Date and Grant Schedule

An original proposal signed by an authorized representative *plus two copies,* must be mailed to EPA postmarked no later than *November 16, 1998.* Proposals which are postmarked after that date will not be considered for funding. EPA expects to announce the grant awards in the late Spring of 1999. Applicants should anticipate project start dates no earlier than Summer and, for planning purposes, may use July 1, 1999, as the earliest start date.

D. Addresses for Mailing Proposals

Proposals requesting over $25,000 in federal environmental education grant funds must be mailed to EPA headquarters in Washington, DC; proposals requesting $25,000 or less must be mailed to the EPA regional office where the project takes place. The headquarters address and the list of regional office mailing addresses by state is included at the end of this document. Proposals submitted to EPA headquarters and regional offices will be evaluated using the same criteria, as defined in sections IV and V of this solicitation.

E. Funding Limits Per Proposal

Since implementation of this grants program in 1992, there has been a great deal of public enthusiasm for developing environmental education projects. Consequently, EPA has consistently received many more applications for these grants than can be supported with available funds. The competition for grants is intense, especially at headquarters where in past years approximately 5% of proposals received have been funded. Regional offices generally fund about 10% of proposals they receive for over $5,000 and more than 15% of proposals for $5,000 or less.

Although the Act sets a maximum limit of $250,000 in environmental education grant funds for any one project, because of limited funds, EPA prefers to award smaller grants to more recipients. Proposals submitted to the EPA Regions have a better chance of being funded, in part because under section 6(i) of the Act, EPA is required to award 25% of the total amount of its grant funds for "small projects" which request $5,000 or less. Consequently, many regional grants are for $5,000 or less. You will significantly increase your chance of being funded if you request $5,000 or less from a Regional Office or $150,000 or less from headquarters.

Section II. Eligible Applicants and Activities

F. Eligible Applicants

Any local or tribal government education agency, state government education or environmental agency, college or university, not-for-profit organization as described in section 501 (C)(3) of the Internal Revenue Code, or noncommercial educational broadcasting entity may submit a proposal. A teacher's school district, an educator's nonprofit organization, or a faculty member's college or university may apply, but an individual teacher, educator, or faculty member *may not.* These terms are defined in section 3 of the Act and 40 CFR 47.105. "Tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs.

G. Multiple or Repeat Proposals

An organization may submit more than one proposal if the proposals are for different projects. No organization will be awarded more than one grant for the same project during the same fiscal year. Applicants who were awarded funds in the past may submit new proposals to expand a previously funded project or to fund an entirely different one. Each new proposal will be evaluated based upon the specific criteria set forth in this solicitation and in relation to the other proposals received in this fiscal year. Due to limited resources, EPA does not generally sustain projects beyond the initial grant period. This grant program is geared toward providing seed money to initiate new projects or to advance existing projects that are "new" in some way, such as reaching new audiences or new locations. If you have received a grant from this program in the past, it is essential that you explain how your current proposal is "new."

H. Eligible Activities

As specified under the Act, environmental education activities that are eligible for funding under this program include, but are not limited to, the following:

1. Training or educating teachers, faculty, or related personnel;
2. Designing and demonstrating field methods, educational practices and techniques, including assessing environmental and ecological conditions or specific environmental issues or problems;
3. Designing, demonstrating, or disseminating environmental curricula (see next paragraph); and
4. Fostering international cooperation in addressing environmental issues and problems in the United States, Canada, and/or Mexico.

Curricula: Regarding Item 3 above, EPA strongly encourages applicants to demonstrate or disseminate existing environmental curricula rather than designing new curricula because experts indicate that a significant amount of quality curricula have already been developed and are under-utilized. EPA will consider funding new curricula only where the applicant demonstrates that there is a need (e.g., that existing curricula cannot be adapted well to a particular local environmental concern or audience, or existing curricula are not otherwise accessible). The applicant must specify what steps they have taken to determine this need (e.g., you may cite a conference where this need was discussed, the results of inquiries made within your community or with various educational institutions, or a research paper or other published document).

I. Ineligible Activities

Environmental education funds cannot be used for:

1. Construction projects;
2. Technical training of environmental management professionals;
3. Non-educational research and development; and/or
4. Environmental information projects that have no educational component, as described in section IB.

Regarding Item (1) above, EPA will not fund construction activities such as the acquisition of real property (e.g., buildings) or the construction or modification of any building. EPA may, however, fund activities such as creating a nature trail or building a bird watching station as long as these items are an integral part of the environmental education project, and the cost is a relatively small percentage of the total amount of federal funds requested.

Section III. Funding Priorities

J. Educational Priorities

All proposals must satisfy the definition of "environmental education" under section IB and also address one of the following educational priorities. Headquarters will fund the larger grants (over $25,000) that address any of the four categories listed below; and regional offices will fund the smaller grants ($25,000 or less) in any of seven categories listed below. The order of the list is random and does not indicate a ranking.

Headquarters Priorities

(1) Health: Educating teachers, students, parents, community leaders, or the public about human-health threats from environmental pollution, *especially as it affects children.*

(2) Capacity Building: Increasing state, local, or tribal capacity to develop and deliver coordinated environmental education programs.

(3) Education Reform: Utilizing environmental education as a catalyst to advance state, local, or tribal education reform and improvement goals.

(4) Community Issues: Designing and implementing model projects to educate the public about environmental issues in their communities through community-based organizations or through print, film, broadcast, or other media.

Regional Office Priorities

(1) Health: Educating teachers, students, parents, community leaders, or the public about human-health threats from environmental pollution, *especially as it affects children.*

(2) Capacity Building: Increasing state, local, or tribal capacity to develop and deliver coordinated environmental education programs.

(3) Education Reform: Utilizing environmental education as a catalyst to advance state, local, or tribal education reform and improvement goals.

(4) Community Issues: Educating the public about environmental issues in their communities through community-based organizations or through print, film, broadcast, or other media.

(5) Teaching Skills: Educating teachers, faculty, or nonformal educators about environmental issues to improve their environmental education teaching skills (e.g., through workshops).

(6) Career Development: Educating students in formal or nonformal settings about environmental issues to encourage environmental careers.

(7) Environmental Justice: Educating low-income or culturally-diverse audiences about environmental issues, thereby advancing environmental justice.

Definitions

The terms used above and in section IV are defined as follows:

Wide application pertains to a project that targets a large and diverse audience in terms of numbers or demographics; or that can serve as a model program elsewhere.

Environmental issue is one of importance to the community, state, or region being targeted by the project (e.g., one community may have significant air pollution problems which makes teaching about human health effects from it and solutions to air pollution important, while rapid development in another community may threaten a nearby wildlife habitat, thus making habitat or ecosystem protection a high priority issue.)

Partnerships refers to the forming of a collaborative working relationship between two or more organizations such as governmental agencies, not-for-profit organizations, educational institutions, and/or the private sector. It may also refer to intra-organizational unions such as the science and art departments within a university collaborating on a project.

Building state, local, or tribal capacity refers to developing or improving the infrastructure needed to enhance the coordinated delivery of environmental education at the state, local, or tribal level. This should involve a coordinated effort by the major education and environmental education providers from the respective state, locality, or tribe in the planning and implementation of the project (e.g., state education and natural resource departments, local school districts and boards, professional education and environmental education associations or coordinating councils, as well as nonprofit education and environmental education organizations) and may also include other types of organizations and private businesses as partners. Examples of how to build state, local, or tribal capacity include, but are not limited to, the following:

—Identifying and assessing needs and setting priorities;
—Evaluating current programs and links among programs;
—Developing and implementing coordinated strategic plans;
—Identifying funding sources and creating grant programs;
—Identifying existing resources, developing databases of such resources, and disseminating these resources and information;

—Establishing or enhancing on-line communications to facilitate networking among organizations;
—Ensuring sustained professional development activities; and/or
—Holding leadership seminars and other types of training.

Education reform and improvement refers to state, local, or tribal efforts to improve student academic achievement and to equip students with the necessary knowledge and skills to be lifelong learners. Your proposal should clearly describe what your state, local, or tribal educational reform and improvement needs and goals are, and how they relate to your environmental education project. Examples of possible reform and improvement strategies to which the proposed environmental education program might be linked include, but are not limited to, the following:

—Curricular and instructional innovations, such as more emphasis on inquiry and problem-solving;
—Learning experiences that have practical application in the real world;
—Project-based learning;
—Team building and group decision-making;
—Interdisciplinary study;
—Development of new high content and performance standards;
—Design of corresponding assessment systems and the realignment of curriculum and instructional practice to the new high standards and assessment systems;
—Use of technology in promoting learning;
—Implementation of sustained and intensive professional development activities; and/or
—Creation of family and community partnerships.

Human health threats from environmental pollution as used here is intended to address recommended actions stated in EPA's "National Agenda to Protect Children's Health from Environmental Threats." The action reads as follows "We call on American parents, teachers and community leaders to take personal responsibility for learning about the hazards that environmental problems pose to our children—and provide them with the information they need to help protect children from those risks at home, at school and at play. An informed, involved local community does a better job of making environmental decisions than a distant bureaucracy—and never more so than when it comes to our children. Parents, teachers and community leaders can and should play a vital, day-to-day role in learning about the particular environmental hazards their children face in their own communities, and then use that knowledge to make more informed decisions that prevent environmental health problems and protect children." Therefore, through this solicitation, EPA encourages environmental education projects to educate the public about environmental hazards and how to minimize human exposure to preserve good health.

Environmental justice refers to EPA's goal to encourage applicants to submit proposals that include efforts to target low-income and culturally-diverse populations, thereby promoting environmental justice. The term environmental justice refers to the fair treatment of people of all races, cultures, and income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. Fair treatment means that no racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences that might result from the operation of industrial, municipal, and commercial enterprises and from the execution of federal, state, local, and tribal programs and policies. An example would be an education project directed at an environmental problem with a disproportionately high and adverse human health or environmental impact on a low-income or culturally-diverse community.

Section IV. Requirements for Proposals and Matching Funds

K. Contents of Proposal

The proposal must contain two standard federal forms, a work plan with a detailed budget, and appendices, as described below:

Federal Forms: Application for Federal Assistance (SF–424) *and Budget Information* (SF–424A): The SF–424 and SF–424A are required for all federal grants and must be submitted as part of your proposal. These forms, along with instructions and samples, are included at the end of this document. Only finalists will be asked to submit additional federal forms needed to process their proposal.

Work Plan: A work plan describes your proposed project. It must include and be formatted according to all five sections described below. When the proposals are scored, the total number of points possible for each proposal is 100. Each of the following five sections of the work plan are assigned points which add up to 90. Reviewers will be given the flexibility to provide up to 10 extra points for exceptional projects based upon the overall quality of the proposal, evidence that educational priorities will be effectively advanced by the project, and that it will provide a good return on the investment. Examples of factors for extra points include strong partnerships, creative use of resources, innovativeness, and sustainability of the project.

1. *Project Summary:* Provide an overview of your entire project in this format. The summary must briefly cover the following and fit on *one page:*

(a) *Organization:* Describe your organization (and list your key partners for this grant, if applicable). Partnerships are encouraged and considered to be a major factor in the success of projects.

(b) *Summary Statement:* Provide an overview of your project that explains the concept and your goals and objectives. This should be a very basic explanation in layman's terms to provide a reviewer with an understanding of the purpose and expected outcome of your educational project.

(c) *Educational Priority:* Identify which priority listed in section III you will address, such as education reform. Proposals may address several educational priorities, however, EPA cautions against losing focus on projects. Evaluation panels often select projects with a clearly defined purpose, rather than projects that attempt to address multiple priorities at the expense of a quality outcome.

(d) *Delivery Method:* Explain how you will reach your audience, such as workshops, conferences, interactive programs, etc.

(e) *Audience:* Describe the demographics of your target audience including the number and types you expect to reach, such as, teachers, students, specific grade levels, ethnic composition, members of the general public, etc.

(f) *Costs:* List the types of activities for which the EPA portion of grant funds will be spent.

The project summary will be scored on how well you provide an overview of your entire project using the topics stated above.

Project Summary Maximum Score: 10 points.

2. *Project Description:* Describe precisely what your project will achieve—how, when, why, and who will benefit. Explain the strategy, objectives, activities, delivery methods, and outcomes in enough detail to answer a grant reviewer's questions. Include a "time line" to link your activities and products to a clear project

schedule and lay them out over the months of your budget period.

This subsection will be scored on how clearly you describe your project and how effectively your project meets the following criteria:

(a) addresses an educational priority listed in section III, such as education reform or children's health; and addresses an environmental issue, such as clean air, ecosystem protection, or cross-cutting issues; and explains their importance to your community, state, or region;

(b) establishes realistic goals and objectives;

(c) identifies its target audience and demonstrates an understanding of the needs of that audience, including cultural diversity where appropriate;

(d) uses an effective delivery method for reaching the target audience, and also has the potential for wide application; and

(e) demonstrates that it uses or produces quality educational products or methods which teach critical-thinking, problem-solving, and decision-making skills.

Project Description Maximum Score: 50 points (10 points for each of the five elements identified above).

3. *Project Evaluation:* Explain how you will ensure that you are meeting the goals and objectives of your project. Evaluation plans may be quantitative and/or qualitative and may include, for example, surveys, observation, or outside consultation.

The project evaluation will be scored on the extent to which your plan will: (a) measure the project's effectiveness; and (b) apply evaluation data gathered during your project to strengthen it.

Project Evaluation Maximum Score: 10 points (5 points for each of the two elements identified above).

4. *Budget:* Describe how EPA funds and non-federal matching funds will be used for personnel/salaries, fringe benefits, travel, equipment, supplies, contract costs, and indirect costs. Include a table which lists each major proposed activity, and the amount of EPA funds and/or matching funds that will be spent on each activity. Smaller grants with uncomplicated budgets may have a table that lists only a few activities. Budget periods not to exceed *one-year* are preferred by EPA for all grants and are mandatory for small grants of $5,000 or less. Budget periods for larger grants cannot exceed two years.

Please Note the following funding restrictions:

—Indirect costs may be requested *only* if your organization has already negotiated and received a currently valid "indirect cost rate" from a cognizant federal agency.

—Funds for salaries and fringe benefits may be requested *only* for those personnel who are directly involved in implementing the proposed project and whose salaries and fringe benefits are directly related to specific products or outcomes of the proposed project. EPA strongly encourages applicants to request competitive amounts of funding for salaries and fringe benefits.

—EPA will not fund the acquisition of real property (including buildings) or the construction or modification of any building.

Matching Funds Requirement: Non-federal matching funds of *at least* 25% of the *total cost* of the project are required, and EPA encourages matching funds of greater than 25%. The 25% match may be provided by the applicant or another organization or institution, and may be provided in cash or by in-kind contributions and other non-cash support. In-kind contributions often include salaries or other verifiable costs and this value must be carefully documented. In the case of salaries, applicants may use either minimum wage or fair market value.

IMPORTANT: The matching non-federal share is a percentage of the *entire cost* of the project. For example, if the 75% federal portion is $5,000, then the entire project should, at a minimum, have a budget of $6,667, with the recipient providing a contribution of $1,667. To assure that your match is sufficient, simply divide the Federally requested amount by three. Your match must be at least one-third of the requested amount to be sufficient. All grants are subject to federal audit.

Other Federal Funds: You may use other federal funds in addition to those provided by this program, but only for different activities. You may not use any federal funds to meet any part of the required 25% match described above, unless it is specifically authorized by statute. If you have already been awarded federal funds for a project for which you are seeking additional support from this program, you must indicate those funds in the budget section of the work plan. You must also identify the project officer, agency, office, address, phone number, and the amount of the federal funds.

This subsection will be scored on: (a) how well the budget information clearly and accurately shows how funds will be used; *and* (b) whether the funding request is reasonable given the activities proposed.

Budget Maximum Score: 10 points (5 points for each of the two elements identified above).

5. *Appendices:* Key Personnel and Letters of Commitment: Attach one or two page resumes for up to three key personnel implementing the project. If there are partners, include one page letters of commitment from partners *explaining their role* in the proposed project. Do *not* include letters of endorsement or recommendation; they will not be considered in evaluating proposals. Please do not submit other appendices or attachments such as video tapes or sample curricula.

This subsection will be scored based upon whether resumes of key personnel are included and whether the key personnel are qualified to implement the proposed project. In addition, the score will reflect whether letters of commitment are included (if partners are used) and the extent to which a firm commitment is made.

Appendices Maximum Score: 10 points.

L. Page Limits

Work plan page limits are based on dollar amounts requested as follows:

1. *$25,000 or less:* EPA Regional Offices prefer a work plan of 3 pages, but will accept up to 5 pages.

2. *Above $25,000:* EPA Headquarters will accept a work plan of up to 10 pages.

These page limits apply to Parts 1, 2, and 3 of the Work Plan, (i.e., the Summary, Project Description, and Project Evaluation). Parts 4 and 5 (i.e. Budget and Appendices) are not included in these page limits. "One page" refers to one side of a single-spaced typed page. The pages must be letter sized (8 ½ × 11 inches), with margins at least an inch wide and with normal type size, rather that extremely small type.

M. Submission Requirements and Copies

The applicant must submit one original and *two* copies of the proposal (a signed SF–424, an SF–424A, a work plan, a budget, and appendices). To conserve paper, please provide double-sided copies of the proposal.

Do *not* include other attachments such as cover letters, tables of contents, or appendices other than resumes and letters of commitment. The SF–424 should be the first page of your proposal and must be signed by a person authorized to receive funds. Blue ink for signatures is preferred. Proposals must be reproducible; they should not be bound. They should be stapled or clipped once in the upper left hand

corner, on white paper, and with page numbers. Mailing addresses are listed at the end of this document.

N. Regulatory References

The Environmental Education Grant Program Regulations, published in the **Federal Register** on March 9, 1992, provide additional information on EPA's administration of this program (57 FR 8390; Title 40 CFR, part 47 or 40 CFR part 47). Also, EPA's general assistance regulations at 40 CFR part 31 applies to state, local, and Indian tribal governments and 40 CFR part 30 applies to all other applicants such as nonprofit organizations.

Section V. Review and Selection Process

O. Proposal Review

Proposals will be reviewed in two phases—the screening phase and the evaluation phase. During the screening phase, proposals will be reviewed to determine whether they meet the basic requirements of this document. Only those proposals which meet all of the basic requirements will enter the full evaluation phase of the review process. During the evaluation phase, proposals will be evaluated based upon the quality of their work plans. Reviewers conducting the screening and evaluation phases of the review process will include EPA officials and external environmental educators approved by EPA. At the conclusion of the evaluation phase, the reviewers will score work plans based upon the scoring system described in more detail in section IV. In summary, the maximum score of 100 points can be reached as follows:

(1) Project Summary—10 Points
(2) Project Description—50 Points
(3) Project Evaluation—10 Points
(4) Budget—10 Points
(5) Appendices—10 Points
(6) Bonus Points—10 Points (Reviewers grant these for excellent proposals)

P. Final Selections

After individual projects are evaluated and scored by reviewers, as described under section IV, EPA officials in the regions and at headquarters will select a diverse range of finalists from the highest ranking proposals. In making the final selections, EPA will take into account the following:

(1) Effectiveness of collaborative activities and partnerships, as needed to successfully develop or implement the project;
(2) Environmental and educational importance of the activity or product;
(3) Effectiveness and of the delivery mechanism (i.e., workshop, conference, etc.);
(4) Cost effectiveness of the proposal; and
(5) Geographic distribution of projects.

Q. Notification to Applicants

Applicants will receive a confirmation that EPA has received their proposal once EPA has received all proposals and entered them into a computerized database, usually within two months of receipt. EPA will notify applicants about the outcome of their proposal when grant awards are announced in late spring or early summer.

Section VI. Grantees Responsibilities

R. Responsible Officials

The Act requires that projects be performed by the applicant or by a person satisfactory to the applicant and EPA. All proposals must identify any person other than the applicant who will assist in carrying out the project. These individuals are responsible for receiving the grant award agreement from EPA and ensuring that all grant conditions are satisfied. Recipients are responsible for the successful completion of the project.

S. Incurring Costs

Grant recipients may begin incurring costs on the start date identified in the EPA grant award agreement. Activities must be completed and funds spent within the time frames specified in the document.

T. Reports and Work Products

Specific reporting requirements will be identified in the EPA grant award agreement. Grant recipients with a federal environmental education grant greater than $25,000 will be required to submit semi-annual progress reports; and grantees for less may be required to submit semi-annual reports. Grant recipients will submit two copies of their final report and two copies of all work products to the EPA project officer within 90 days after the expiration of the budget period. This report will be accepted as the final report unless the EPA project officer notifies you that changes must be made.

EPA plans to assemble a library of final reports and work products at headquarters in Washington, D.C. EPA also plans to evaluate these final reports and work products and disseminate those that serve as model programs.

Section VII. Other Information and Mailing List

U. Internet Access

You can view and download this solicitation notice, a list of EPA environmental education contacts, tips for developing successful grant applications, descriptions of past projects funded under this program, and other education resource materials at: http://www.epa.gov/enviroed. In addition, a tutorial for grant applicants is available at: http://www.epa.gov/seahome/grants/src/grant.htm.

If you receive this solicitation electronically and if the standard federal forms for Application (SF–424) and Budget (SF–424A) are not available or cannot be printed, you may locate them the following ways (but please read our instructions which have been modified somewhat): the **Federal Register** in which this document is published contains the forms and is available to be copied at many public libraries; many federal offices use the forms and have copies available; or you may call or write the appropriate EPA office listed at the end of this document.

V. Other Funding

Please note that this is a very competitive grants program. Limited funding is available and many grant applications are expected to be received. Therefore, the Agency cannot fund all applications. If your project is not funded, you may wish to review a listing of other EPA grant programs in the *Catalog of Federal Domestic Assistance*. This publication is available at local libraries, colleges, and universities.

W. Classification of Notice

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this solicitation under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2030–0006.

X. Mailing list for Year 2000 Environmental Education Grants

EPA develops an entirely new mailing list for the grants program each year. The Fiscal Year 2000 mailing list will automatically include all applicants who submit proposals for a 1999 grant and anyone who specifically requests the next Solicitation Notice. If you do not submit a proposal for 1999 and wish to be added to our future mailing list, mail your request—please do not telephone—along with your name, organization, address, and phone number to: Environmental Ed Grant Program (Year 2000), Office of Environmental Education (1704), EPA, 401 M Street, S.W., Washington, D.C. 20460.

Dated: August 19, 1998.

Diane H. Esanu,

Acting Deputy Associate Administrator, Office of Communications, Education, and Media Relations.

Mailing Addresses and Information

Applicants who need more information about this grant program or clarification about specific requirements in this Solicitation Notice, may contact the EPA Environmental Education Division in Washington, D.C. for grant requests of more than $25,000 or their EPA regional office for grant requests of $25,000 or less.

U.S. EPA Headquarters—For Proposals Requesting More than $25,000

Mail proposals to: Environmental Education Grant Program, Office of Environmental Education (1704), 401 M Street, S.W., Washington, D.C. 20460.

Information: Diane Berger and Sheri Jojokian, Environmental Education Specialists, 202–260–8619.

U.S. EPA Regional Offices—For Proposals Requesting $25,000 or Less

Mail the proposal to the Regional Office where the project will take place, rather than where the applicant is located, if these locations are different.

EPA Region I—CT, ME, MA, NH, RI, VT

Mail proposals to: U.S. EPA, Region I, Env Ed Grants, Grants Management Office, JFK Federal Building (MGM), Boston, MA 02203

Hand-deliver to: One Congress Street, 11th Floor Mail Room, Boston, MA (M–F 8 am–4 pm)

Information: Kristen Conroy, Enviro Ed Office, 617–565–3618

EPA Region II—NJ, NY, PR, VI

Mail proposals to: U.S. EPA, Region II, Env Ed Grants, Grants and Contracts Management Branch, 290 Broadway, 27th Floor, New York, NY 10007–1866

Information: Teresa Ippolito, EE Coordinator, 212–637–3671

EPA Region III—DC, DE, MD, PA, VA, WV

Mail proposals to: U.S. EPA, Region III, Env Ed Grants, Grants Management Section (3PM70), 1650 Arch Street, Philadelphia, PA 19103–2029

Information: Nan Ides, Enviro Ed Office, 215–814–5546

EPA Region IV—AL, FL, GA, KY, MS, NC, SC, TN

Mail proposals to: U.S. EPA, Region IV, Env Ed Grants, Office of Public Affairs, 61 Forsyth Street, S.W., Atlanta, GA 30303

Information: Janie Foy, EE Office, 404–562–8432

EPA Region V—IL, IN, MI, MN, OH, WI

Mail proposals to: U.S. EPA, Region V, Env Ed Grants, Grants Management Section (MC–10J), 77 West Jackson Boulevard, Chicago, IL 60604

Information: Julie Moriarty, EE Office, 312–353–5789

Region VI—AR, LA, NM, OK, TX

Mail proposals to: U.S. EPA, Region VI, Env Ed Grants (6XA), 1445 Ross Avenue, Dallas, TX 75202

Information: Jo Taylor, EE Grants Coordinator, 214–665–2204

Region VII—IA, KS, MO, NE

Mail proposal to: U.S. EPA, Region VII, Env Ed Grants, Office of External Programs, 726 Minnesota Avenue, Kansas City, KS 66101

Information: Rowena Michaels, EE Coordinator, 913–551–7003

Region VIII—CO, MT, ND, SD, UT, WY

Mail proposals to: U.S. EPA, Region VIII, Env Ed Grants, 999 18th Street (80C), Denver, CO 80202–2466

Information: Cece Forget, EE Coordinator, 303–312–6605

Region IX—AZ, CA, HI, NV, American Samoa, Guam, Northern Marianas

Mail proposals to: U.S. EPA, Region IX, Env Ed Grants, Office of Communications and Government Relations (CGR–3), 75 Hawthorne Street, San Francisco, CA 94105

Information: Matt Gaffney, Office of Communications and Government Relations (OCGR), 415–744–1166

Region X—AK, ID, OR, WA

Mail proposals to: U.S. EPA, Region X, Env Ed Grants, Public Environmental Resource Center, 1200 Sixth Avenue (EXA–124), Seattle, WA 98101

Information: Sally Hanft, EE Coordinator, 1–800–424–4EPA, 206–553–1207

Instructions for the SF–424—Application

This is a standard Federal form to be used by applicants as a required face sheet for the Environmental Education Grants Program. These instructions have been modified for this program only and do *not* apply to any other Federal program.

1. Check the box marked "Non-Construction" under "Application."

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. State use only (if applicable).

4. If you are currently funded for a related project, enter present Federal identifier number. If not, leave blank.

5. Legal name of applicant organization, name of primary organizational unit which will undertake the grant activity, complete address of the applicant organization, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. You can obtain this number from your payroll office. It is the same Federal Identification Number which appears on W–2 forms. If your organization does not have a number, you may obtain one by calling the Taxpayer Services number for the IRS.

7. Enter the appropriate letter in the space provided.

8. Check the box marked "new" since all proposals must be for new projects.

9. Enter U.S. Environmental Protection Agency.

10. Enter 66.951 Environmental Education Grants Program

11. Enter a brief descriptive title of the project.

12. List only the largest areas affected by the project (e.g., State, counties, cities).

13. Self-explanatory (see section IV, K4 in Solicitation Notice).

14. In (a) list the Congressional District where the applicant organization is located; and in (b) any District(s) affected by the program or project. If your project covers many areas, several congressional districts will be listed. If it covers the entire state, simply put in STATEWIDE. If you are not sure about the congressional district, call the County Voter Registration Department.

15. Amount requested or to be contributed during the funding/budget period by each contributor. Line (a) is for the amount of money you are requesting from EPA. Lines (b–e) are for the amounts either you or another organization are providing for this project. Line (f) is for any program income which you expect will be generated by this project. Examples of program income are fees for services performed, income generated from the sale of a brochure produced with the grant funds, or admission fees to a conference financed by the grant funds.

The total of lines (b–e) must be at least 25% of line (g), as this grant has a match requirement of 25% of the TOTAL ALLOWABLE PROJECT COSTS. Value of in-kind contributions should be included on appropriate lines as applicable. If both basic and supplemental amounts are included, show breakdown on an attached Budget sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Check (b) (NO) since your application does not have to be sent through the state clearinghouse for review.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. The authorized representative is the person who is able to contract or obligate your agency to the terms and conditions of the grant. (Please sign with blue ink.) A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

Instructions for the SF–424A—Budget

This is a standard Federal form used by applicants as a basic budget. These instructions *have* been modified for this grant program only and do *not* apply to any other Federal Program.

Do NOT fill in section A—Budget Summary.

Complete Section B—Budget Categories—Columns (1), (2) and (5)

For each major program, function or activity, fill in the total requirements for funds by object class categories.

All applications should contain a breakdown by the relevant object class categories shown in Lines (a–h): columns (1), (2), and (5) of section B. Include Federal funds in column (1) and non-Federal (matching) funds in column (2), and put the totals in column (5). Many applications will not have entries in all object class categories.

Line 6i—Show the totals of lines 6a through 6h in each column.

Line 6j—Show the amount of indirect costs. (To be applicable, you must have a currently valid "indirect cost rate" from a Federal agency.)

Line 6k—Enter the total of amounts of Lines 6i and 6j.

Line 7—Program Income—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Describe the nature and source of income in the detailed budget description.

Detailed Itemization of Costs

The proposal must also contain a detailed budget description as specified in the Notice in section IV, K4, and should conform to the following:

Personnel: List all participants in the project by position title. Give the percentage of the budget period for which they will be fully employed on the project (e.g., half-time for half the budget period equals 25 percent, full-time for half the budget period equals 50 percent, etc.). Give the annual salary and the total cost over the budget period for all personnel listed.

Travel: If travel is budgeted, show destination and purpose of travel as well as costs.

Equipment: Identify all equipment to be purchased and for what purpose it will be used.

Supplies: If the supply budget is less than 2% of total costs, you do not need to itemize.

Contractual: Specify the nature and cost of such services. EPA may require review of contracts for personal services prior to their execution to assure that all costs are reasonable and necessary to the project.

Construction: Not allowable for this program.

Other: Specify all other costs under this category.

Indirect Costs: Provide an explanation of how indirect charges were calculated for this project.

BILLING CODE 6560–50–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

SAMPLE

2. DATE SUBMITTED	Applicant Identifier
11-1-98	
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: Wythe County School System

Organizational Unit: Office of Teacher Training

Address (give city, county, state, and zip code): 219 Main Street, Wytheville, VA 12345 (Wythe County)

Name and telephone number of the person to be contacted on matters involving this application (give area code): Janet Jones (TEL) (540)223-4567 (FAX) (540)223-7890

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 1 2 — 3 4 5 6 7 8 9

7. TYPE OF APPLICANT: (enter appropriate letter in box) N

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Non-Profit; O. Other (Specify)

8. TYPE OF APPLICATION:
☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify):

9. NAME OF FEDERAL AGENCY: U.S. ENVIRONMENTAL PROTECTION AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 6 6 • 9 5 1
TITLE: ENVIRONMENTAL EDUCATION GRANT

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: "Eco-Blue" Teacher Training re: Ecosystems in the Blue Ridge Mountains

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): 3 Counties: Wythe, Smith, Green

13. PROPOSED PROJECT:

Start Date	Ending Date
7-1-99	6-30-00

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project
02	02, 04, 12

15. ESTIMATED FUNDING:

a. Federal	$ 10,000 .00
b. Applicant	$ 3,000 .00
c. State	$ .00
d. Local	$ .00
e. Other	$ 334. .00
f. Program Income	$ .00
g. TOTAL	$ 13,334. .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. NO. ☒ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
John Smith	Superintendent of Schools	(540)223-4231

d. Signature of Authorized Representative: John Smith
e. Date Signed: 10-31-98

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SAMPLE

[redacted]

SECTION B — BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1) Federal Funds	(2) Non-Federal Match			
a. Personnel	$ 4,200	$ 1,600			$ 5,800
b. Fringe Benefits	400	200			600
c. Travel	500	200			700
d. Equipment					
e. Supplies	2,300	1,000			3,300
f. Contractual	1,200				1,200
g. Construction	XXXXXXXXXX	XXXXXXXXXX			XXXXXXXXXX
h. Other	1,400	334			1,734
i. Total Direct Charges (sum of 6a - 6h)	10,000	3,334			13,334
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$ 10,000	$ 3,334			$ 13,334
7. Program Income	$	$			$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Non-Profit
O. Other (Specify) _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

US Environmental Protection Agency

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 6 6 . 5 9 1

TITLE: Environmental Education Grant

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☒ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
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OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

				Revised Budget	
				Non-Federal (f)	Total (g)
				$	$
				$	$

SECTION B — BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1) Federal Funds	(2) Non-Federal Match			
a. Personnel	$	$			$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction	XXXXXXXXXXX	XXXXXXXXXXX			XXXXXXXXXXX
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$			$
7. Program Income	$	$			$

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[FR Doc. 98-22798 Filed 8-24-98; 8:45 am]
BILLING CODE 6560-50-C

federal register

Tuesday
August 25, 1998

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish the 1998–99 late-season hunting regulations for certain migratory game birds. The Service annually prescribes frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in late seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

DATES: The comment period for proposed late-season frameworks will end on September 7, 1998.

ADDRESSES: Comments should be mailed to Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 25, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20 and May 29 **Federal Register** to review the status of migratory shore and upland game birds. The Service discussed hunting regulations for these species and for other early seasons. On July 17, 1998, the Service published in the **Federal Register** (63 FR 38700) a third document specifically dealing with proposed early-season frameworks for the 1998–99 season. The July 17 supplement also established the final regulatory alternatives for the 1998–99 duck hunting season for all States except Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. On August 5, 1998, the Service published in the **Federal Register** (63 FR 41926) a fourth document dealing specifically with the final regulatory alternatives for the 1998–99 duck hunting season for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. The Service will publish a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 1998–99 season in late August.

On August 6, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20, May 29, and July 17 **Federal Register**, to review the status of waterfowl. This document deals specifically with proposed frameworks for the late-season migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits. The Service has considered all pertinent comments received through August 6, 1998, in developing this document. In addition, new proposals for certain late-season regulations are provided for public comment. Comment periods are specified above under **DATES**. The Service will publish final regulatory frameworks for late-season migratory game bird hunting in the **Federal Register** on or about September 25, 1998.

Presentations at Public Hearing

The Service presented a report on the status and harvest of waterfowl. This report is briefly reviewed below as a matter of public information, and is a summary of information contained in the "Status of Waterfowl and Fall Flight Forecast" and the "Preliminary Estimates of Waterfowl Harvest and Hunter Activity in the United States During the 1997 Hunting Season" reports.

Most goose and swan populations in North America remain numerically sound and the size of most fall flights will be similar to those of last year. Nine of the 28 populations of geese and swans we report on appear to have decreased since last year, 7 appear to have increased, 7 appear to have changed little, and no comparisons were possible for the remaining 5. Spring estimates of several Canada goose populations that nest near Hudson Bay declined this year; the declines may be at least partly an artifact of survey timing. Forecasts for production of young in 1998 varied regionally based largely on spring weather and habitat conditions. Generally, spring phenology was earlier than normal in northern Quebec and the Hudson Bay Lowlands, which should result in greater-than-average rate of production for geese nesting there. In most areas of the central and western Arctic, and along the west coast of Alaska, average production is expected from nesting geese and swans. In the interior of Alaska, a mild spring with minimal flooding should lead to better-than-average production. Habitat conditions for nesting geese deteriorated in much of southcentral Canada since last spring, but they remained mostly favorable in eastern Canada and much of the contiguous U.S.

The 1998 estimate of total ducks in the traditional survey area was 39.1 million birds, an 8% decrease ($P < 0.01$) from 1997 but still 20% higher ($P < 0.01$) than the long-term average. The estimate for mallards (*Anas platyrhynchos*) was 9.6 million, a value similar ($P = 0.49$) to that of last year. Abundances of green-winged teal (*Anas crecca*), northern shovelers (*A. clypeata*), northern pintails (*A. acuta*), and scaup (*Aythya affinis* and *A. marila* combined) decreased ($P < 0.04$) from levels observed in 1997. Estimates for 7 of the 10 principal duck species were above ($P \leq 0.04$) their respective long-term averages, but northern pintail and 2 scaup species (combined) remained below their averages ($P < 0.01$). The number of ponds in May (4.6 million) was 38% lower ($P < 0.01$) than last year, and 6% lower ($P = 0.06$) than the long-term average. In eastern areas of Canada and the U.S., the number of total ducks was similar ($P = 0.74$) to that of last year and to the 1995–97 average ($P = 0.85$). Habitats in the eastern survey area were somewhat drier than last year, but conditions remained favorable for waterfowl production. The preliminary estimate of the total-duck fall-flight index is 84 million birds, compared to 92 million last year. The fall flight is

predicted to include 11.7 million mallards, 18% lower ($P < 0.01$) than the estimate of 14.4 million in 1997.

During the 1997–98 hunting season, both the number of duck stamps sold and participation by hunters increased for the fifth consecutive year. Hunter participation differed among Flyways, with the largest increases in recent years occurring in the Mississippi and Central Flyways. In the Atlantic and Pacific Flyways, hunters numbers have not increased appreciably in the last decade. Overall, hunter numbers remain well below the highs observed during the early 1970s.

The number of days that hunters participated in hunting increased in all Flyways last year. In the Mississippi and Central Flyways the number of hunter-days approached historical record highs. The seasonal success of hunters during the 1997–98 hunting season was very similar to that of the previous hunting season. Record hunter success occurred in the Mississippi and Central Flyways. On the average, the hunters that participated in duck hunting the last few years have killed more ducks than did hunters historically.

Overall duck harvest increased 15%. The number of ducks harvested during the 1997–98 hunting season was similar to the numbers that were harvested during the early 1970s. The increased harvest during the last few years is a reflection the more liberal hunting seasons offered and the increased duck abundance resulting from the improved water availability and habitat conditions that occurred in the prairie-pothole area. Of the five species of ducks that are most important in the bag, in order of importance; the number of mallards harvested increased 11%; the number of green-winged teal increased 34%; the number of gadwall increased 6%; the number of wood ducks increased 18%; and the number of blue-winged teal was similar to the 1996–97 harvest.

The harvest of geese last year was similar to that of the previous year. Steady increases in goose harvests over the last decade largely reflect the increased numbers of resident or giant Canada geese, although increases in other populations of Canada geese and other goose species, including snow geese, have occurred. The historical decline in goose harvest in the Atlantic Flyway is a reflection of the poor status of the Atlantic Population of Canada Geese. In the United States, the number of Canada geese harvested last year was similar to the 1996–97 hunting season. Snow goose harvest increased 6% from 1996–97.

The number of young per adult in the harvest serves as an indicator of reproductive success. Harvest age ratios of mallards increased from 1.06 in 1996 to 1.20 in 1997. The age ratios of most ducks increased in 1997, suggesting improved production. A substantial increase from 0.86 to 1.47 was noted for the black duck. Slight decreases were noted for redhead ducks and canvasbacks. Age ratios of most goose populations were higher in 1997 than in 1996, except Ross', white-fronted geese, and Pacific brant experienced decreased age ratios.

Review of Comments Received at Public Hearing

One individual presented a statement at the August 6, 1998, public hearing. His comments are summarized below.

Mr. Brad Bales, Oregon Department of Fish and Wildlife, spoke on behalf of the Pacific Flyway Council. He indicated that the Council supported and appreciated the Service's decision on the framework issue and was also in strong support of the proposed National Flyway Council review of this issue. Additionally, he expressed the support of the States of Washington and Oregon as well as the Council for the Service's endorsement of the proposed changes in dark goose regulations in the dusky Canada goose control zones.

Flyway Council Recommendations and Written Comments

The preliminary proposed rulemaking, which appeared in the March 20 **Federal Register**, opened the public-comment period for late-season migratory game bird hunting regulations. The Service has received recommendations from all four Flyway Councils. Late-season comments are summarized and discussed in the order used in the March 20 **Federal Register**. Only the numbered items pertaining to late seasons for which written comments were received are included. Flyway Council recommendations shown below include only those involving changes from the 1997–98 late-season frameworks. For those topics where a Council recommendation is not shown, the Council supported continuing the same frameworks as in 1997–98.

1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

A. General Harvest Strategy

Council Recommendations: The Atlantic Flyway Council, the Upper-Region Regulations Committee of the Mississippi Flyway Council, the Central Flyway Council, and the Pacific Flyway Council recommended adopting the "liberal" alternative for the 1998–99 duck hunting season.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended adoption of the "liberal" alternative with a modification of the framework closing date. Specific details are discussed in B. Framework Dates.

The Mississippi Flyway Council recommended that the Service or the Adaptive Harvest Management Working Group consider: (1) the definition of the blank cells in the AHM matrix, (2) the utility of eliminating the "very restrictive" regulations package, and (3) the utility of a constraint that the regulations package may change by no more than one level between consecutive hunting seasons.

Service Response: In 1995, the Service embraced the concept of adaptive resource management for regulating duck harvests in the United States. The adaptive approach explicitly recognizes that the consequences of hunting regulations cannot be predicted with certainty, and provides a framework for making objective decisions in the face of that uncertainty. Moreover, adaptive harvest management (AHM) relies on the iterative cycle of monitoring, assessment, and decision-making to clarify relationships among hunting regulations, harvests, and waterfowl abundance.

A critical need for the successful implementation of AHM is a set of regulatory alternatives that remain fixed for an extended period. When AHM was first implemented in 1995, three regulatory alternatives characterized as liberal, moderate, and restrictive were defined based on recent regulatory experience. The 1995 regulatory alternatives also were considered for the 1996 hunting season. In 1997, the regulatory alternatives were modified in response to requests from the Flyway Councils. Changes included provisions for additional hunting opportunity under the moderate and liberal alternatives, as well as the addition of a very restrictive alternative. For the 1998–99 season, no further changes in the set of regulatory alternatives have been made.

To date, AHM has focused primarily on midcontinent mallards, but progress

is being made on extending the process to account for mallards breeding eastward and westward of the midcontinent region. The ultimate goal is to develop Flyway-specific harvest strategies, which represent an average of optimal strategies for each mallard breeding population, weighted by the relative contribution of each population to the respective Flyways. Geographic boundaries used to define midcontinent and eastern mallards have been established, and mathematical models of population dynamics are available for predicting regulatory impacts. Investigations regarding the geographic bounds and population dynamics of western mallards are ongoing.

AHM strategies for 1998 were derived for midcontinent and eastern mallards, but they do not yet allow for Flyway-specific regulatory choices. The strategy for midcontinent mallards was based on: (1) an objective to maximize long-term harvest and achieve a population goal of 8.7 million; (2) the regulatory alternatives for 1998; and (3) current understanding of regulatory impacts. Based on a breeding population size of 10.6 million mallards (traditional surveyed area plus the Lake States) and 2.5 million ponds in Prairie Canada, the optimal regulatory choice for midcontinent mallards in 1998 is the liberal alternative. The strategy for eastern mallards was based on: (1) an objective to maximize long-term harvest; (2) the regulatory alternatives for 1998; and (3) a "working model" of population dynamics. Based on a breeding population size of 1.0 million mallards and spring precipitation of 11.6 inches, the optimal regulatory choice for eastern mallards in 1998 also is the liberal alternative. Therefore, the Service agrees with the Flyway Councils and is proposing the liberal alternative for the 1998 duck hunting season.

The framework closing date recommended by the Lower-Region Regulations Committee of the Mississippi Flyway Council differed from those in the "liberal" alternative established in the August 5 **Federal Register**. The Service's proposal is consistent with the "liberal" alternative outlined in the July 17 and August 5 **Federal Register**s and was supported by the other three Flyway Councils as well as the Mississippi Flyway Council's Upper-Region Regulations Committee.

The Service understands the desire of the Mississippi Flyway Council to clarify some aspects of the current AHM strategies. The "blank cells in the AHM matrix" represent combinations of mallard population size and environmental conditions that are insufficient for an open season on mallards, given current regulatory alternatives. In the case of midcontinent mallards, the prescriptions for closed seasons largely are a result of the harvest management objective, which emphasizes population growth at the expense of hunting opportunity when mallard numbers are below the NAWMP goal. The Service will request the AHM working group to investigate the implications of eliminating the very restrictive option, and of constraining annual changes among alternatives.

B. Framework Dates

Council Recommendations: The Atlantic Flyway Council recommended that the Service not allow framework date extensions in any States during the 1998–99 season, and that the Service work with the National Flyway Council to develop a process and timetable for addressing the issue.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended framework dates from October 3 to January 31. Any State opting for a framework closure later than the Sunday nearest January 20 would be assessed a 10% penalty in days.

Service Response: In the August 5 **Federal Register**, the Service outlined the reasons why it did not support an expansion of the framework dates at this time.

F. Zones and Split Seasons

Written Comments: The Ohio Division of Wildlife requested elimination of the Pymatuning Waterfowl Hunting Zone in Ohio and incorporation of the affected area into the North Zone beginning in the 1998–99 season.

Service Response: In the past, hunting seasons in that portion of Ohio had to be the same as those selected for that portion of Pennsylvania. Beginning this year, the Pymatuning Area will no longer be included in the Federal waterfowl hunting frameworks as a separate area, and will be considered part of Ohio's North Zone.

G. Special Seasons/Species Management

i. Black Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the individual Atlantic Flyway States achieve a 42 percent reduction in their black duck harvest during the 1998–99 season compared with the 1977–81 base-line harvest.

Service Response: The Service agrees with the Atlantic Flyway Council's recommendation and acknowledges the Council's concern for the population status of black ducks. Black duck populations remain below the North American Wildlife Management Plan goal and while the decline seems to have halted, little increase is evident. The Service believes the harvest restrictions identified in the 1983 Environmental Assessment should be maintained until a revised harvest strategy is developed.

ii. Canvasbacks

The Service continues to support the canvasback harvest strategy adopted in 1994. Current population and habitat status suggest that a daily bag limit of 1 canvasback during the 1998–99 season will result in a harvest within levels allowed by the strategy.

iii. Pintails

Council Recommendations: All four Flyway Councils recommended a daily bag limit of 1 pintail in the 1998–99 hunting season as prescribed by the Interim Pintail Harvest Strategy.

Service Response: The Service concurs with the recommendations.

iv. Scaup

Council recommendations: The Atlantic Flyway Council recommended a 4-bird daily bag limit for scaup in the Atlantic Flyway, and that the Atlantic Flyway cooperate with the other Flyway Councils and the Service to develop a conservation plan for scaup, to include a harvest management strategy.

The Mississippi Flyway Council recommended that the Mississippi Flyway cooperate with other Flyway Councils and the Service to develop a harvest management strategy for scaup prior to the 1999–2000 hunting season. The Council believed that the strategy should address the criteria recommended by the Service in the July 22, 1996 **Federal Register** (61 FR 37994) prior to changing species harvest management: (1) An assessment of how the population responds to harvest and environmental conditions; (2) Criteria that prescribe when regulations should be changed; (3) The levels of changes in regulations that will be considered (e.g., ranges of bag limits and season lengths); and (4) Considerations for determining the efficacy of the harvest strategy. The Council further recommended that the Service take the lead to coordinate strategy development. The Council believed that this is the highest priority of the new species-specific management issues for consideration in developing 1999–2000 duck hunting regulation packages.

The Central Flyway Council recommended no change in scaup regulations for the 1998–99 hunting

season and suggested that the Service establish a study group of MBMO biologists and a representative from each of the four Flyways to develop a draft Scaup Harvest Management Strategy prior to the spring 1999 Flyway Technical Committee meetings.

The Pacific Flyway Council recommended no internal bag restrictions on scaup in the Pacific Flyway for the 1998–99 hunting season. Further the Council offered their assistance to a cooperative effort to investigate causes of the decline in scaup populations while noting the harvest in the Pacific Flyway was small relative to other Flyways.

Service Response: The Service supports the Flyway Councils' recommendations for scaup hunting regulations. However, the Service remains concerned about the declining trend in the size of the scaup breeding population and believes that substantial reductions in hunting opportunity may soon be necessary. The Service intends to cooperate with the Flyway Councils in an effort to develop a strategy for guiding scaup hunting regulations beginning in 1999. This strategy will build upon findings of a status report on scaup that the Service currently is preparing.

4. Canada Geese

Council Recommendations: The Atlantic Flyway Council recommended the Service not open the regular hunting season on Atlantic Population (AP) Canada geese during the 1998–99 season. However, the Council recommended that the Service adopt a regular season on the newly defined North Atlantic Population of Canada geese. The new regular season would be offered in Maine, New Hampshire, Rhode Island, and portions of Massachusetts (Coastal and Central Zones), Connecticut (except for Hartford and Litchfield Counties west of the Connecticut River), and New York (Long Island Zone) and would consist of a 40-day season with a 2-bird daily bag limit between October 1 and December 15 (December 31 in New York's Long Island Zone). The Council also recommended that New York be permitted to change the boundary of their regular Canada goose season in western New York (portions of Genesee, Niagara, and Wyoming Counties).

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1998 regular goose season opening date be as early as September 19 throughout Michigan. The Committee also recommended several changes in Canada goose quotas, season lengths, etc., based on population status and population management plans and programs.

The Central Flyway Council made several recommendations on goose frameworks. In the East Tier, the Council recommended a Canada goose (or any other goose species except light geese and white-fronted geese) season of 93 days with a daily bag limit of 3. Outside framework dates would be the Saturday nearest October 1 (Oct. 3, 1998) and the Sunday nearest February 15 (Feb. 14, 1999). The Council further recommended that the boundary between Nebraska's East and West Units be modified and that Southwest and Northwest Dark Goose Hunt Units be established in Nebraska. In the West Tier, the Council recommended dark goose outside framework dates of the Saturday nearest October 1 (October 3, 1998) and the Sunday nearest February 15 (February 14, 1999), with a daily bag and possession limits of 4 and 12, respectively. In the western goose zone of Texas, the Council recommended a daily bag limit of 4 Canada geese and 1 white-fronted goose and a possession limit of 14, including no more than 12 Canada geese and 2 white-fronted geese. The Council further recommended an expansion of New Mexico's Middle Rio Grande Valley dark goose zone to include Valencia and the remainder of Socorro Counties.

Written Comments: The Michigan Department of Natural Resources disagreed with the Service's reduction in the daily bag limit of Canada geese from 2 birds to 1 in the South Zone during the last 2 days of their proposed early-opening regular Canada goose season, which would coincide with the first two days of the duck season, stating that this change is unnecessarily restrictive to hunters.

The Maryland Wildlife Advisory Commission expressed concerns for the problem of crop losses on the State's Eastern Shore, caused by too many Canada geese and the lack of a hunting season. Also, they cite the lack of winter foods for geese since there is no longer an economic incentive to make food available. The Commission recommended consideration of a hunting season on the Atlantic Population of Canada geese as soon as the geese can withstand it biologically.

The Pacific Flyway Council recommended that the bag limit for dark geese be increased from 3 to 4 in the Oregon and Washington Special Goose Management Area for both the regular and Special late seasons. The Council also recommended that this limit include no internal restrictions on cackling Canada geese. In addition, the Council recommended that a portion of Grays Harbor County, Washington, south of U.S. highway 12 and east of U.S. highway 101, be added to the Washington Special Goose Management Area.

Service Response: The Service supports the Atlantic Flyway's request to adopt a regular season on the North Atlantic Population of Canada geese in the areas described. Monitoring and assessment programs specified in the newly developed interim management plan, 1998–2000, appear to be adequate to determine the status of this population and evaluate the impacts of hunting. Breeding surveys in Labrador indicate that this population currently exceeds the population goal stipulated in the management plan. The harvest strategy in the plan has targeted a range of harvest rates to be achieved under each regulatory alternative. The "moderate" alternative recommended seems to be appropriate at this time. The Service encourages further development of the management plan during the interim period to include the addition of portions of Newfoundland and Quebec in the breeding survey database and to expand the banding program beyond Prince Edward Island to late-summer staging areas in Newfoundland and Labrador. This information will facilitate updating the population goal and improve harvest-rate estimates. The Service appreciates the efforts of the Council and its Technical Section to delineate and improve the management of this population.

The Service recognizes the problems related to a closed hunting season on the Atlantic Population but maintains that the recovery to acceptable numbers must be sustained into the future. The good production recorded on the breeding grounds in 1997 and 1998 will greatly speed the recovery and is encouraging news. A regular season harvest of AP Canada geese will be considered when the breeding population index indicates a sustained recovery and exceeds 60,000 pairs. Until then, no additional harvest is prescribed in any or portions of its range that might slow or jeopardize its recovery to objective levels.

The Service concurs with the boundary modification to New York's regular Canada goose season in the western hunt area.

Regarding the Michigan proposal, the Service believes that this change will assist in accomplishing the Mississippi Flyway Council's harvest-management objectives for this hunting season to reduce the harvest of Mississippi Valley Population Canada geese and not increase the harvest of the Southern

James Bay Population. The season will still provide additional opportunity, with the earlier opening and retention of the 2-bird daily bag limit for most of the season, to harvest Canada geese from the State's burgeoning resident goose populations.

The Service concurs with the Central Flyway's request for expansion of Canada goose seasons in the east tier. However, this expansion would include a liberalization for Eastern Prairie Population (EPP) of Canada geese in a small portion of Grant County, South Dakota. The Service believes that restrictions for EPP that have been put into effect this year in the Mississippi Flyway should also apply to this area. Historically, this area accounted for about 5% of the EPP recoveries, but has declined to 1.5% in recent years. Neck-collar observations also indicate that the majority of EPP geese do not use this area until after December 1. To address the status of these EPP geese, the Service proposes a bag limit of 3 birds until November 30, and 1 bird thereafter for this area (Power Plant Area) in Grant County, South Dakota. This would be a reduction from the 2-bird daily bag limit last year.

Regarding the Central Flyway Council's recommendation for a boundary modification in Nebraska, the Service concurs with the recommendation.

Regarding the Central Flyway Council's recommendations in the West Tier, the Service concurs with the recommendation for a change in the framework closing date for dark geese from January 31 to the Sunday nearest February 15; however, the Service does not support the change in the possession limit from twice to three times the daily bag limit. The Service maintains a general practice of setting possession limits for all migratory game birds as twice the daily bag limit throughout the conterminous U.S., with the only exceptions for light geese and under certain circumstances for Canada geese, where harvest quotas are in place. Attempts to encourage hunter participation by increasing possession limits have not been shown to be effective and changes in the general approach of altering possession limits would result in law enforcement concerns. The Service does support the expansion of New Mexico's Middle Rio Grande Valley dark goose zone.

The Service concurs with the Pacific Flyway Council recommendations.

C. Late Seasons

Council Recommendations: The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service work closely with the Council's Technical Section in evaluating the cumulative effects that special seasons may have on non-target populations.

Service Response: The Service concurs and will work with the Council's Technical Section to assess the cumulative effects of special seasons.

5. White-fronted geese

Council Recommendations: The Central Flyway Council recommendations regarding dark geese in the West Tier involve white-fronted geese (see item 4. Canada Geese). For the East Tier, the Council recommended a season of 72 days, with a daily bag limit of 2 white-fronted geese or a season of 86 days with a daily bag limit of 1 white-fronted goose.

Service Response: The Service concurs with the recommendation.

7. Snow and Ross' Geese

Council Recommendations: The Atlantic Flyway Council recommended an increase in the daily bag limit to 15, a possession limit of 45, and allowing shooting one-half hour after sunset and the use of electronic calling devices when other seasons are closed. The Council requests that these changes in basic regulations be implemented as soon as legally possible.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended liberalization of daily bag limits, possession limits, tagging requirements, shooting hours, and hunting methods (electronic calls and unplugged guns) for light geese, following the close of the other waterfowl seasons in an area to help reduce the population size of snow geese.

The Central Flyway Council recommended a light goose hunting season of 107 days, with a daily bag limit of 20 and a possession limit of 80. The Council also recommended no limit on the number of splits or zones within a season. For the Rainwater Basin area of Nebraska, the Council recommended that the Service eliminate the use of refuges and alternate-day hunting for snow geese during the spring migration period. The Council further recommended that the Service develop a proposed rule to amend the portions of 50 CFR part 20 pertaining to the methods of taking light geese. This proposal would include the use of electronic calls, live decoys and other techniques in the Central Flyway States during regular hunting seasons when other seasons are closed and prior to March 10, with the goal of having those changes in place prior to the beginning of the 1999–2000 light goose season.

Service Response: The Service concurs with the recommendation for a change in the daily bag limit for light geese from 10 to 20; but does not support the recommended change in the possession limit from 40 to 80. Upon review, the Service believes that possession limits for light geese are no longer a useful management tool and proposes to eliminate the possession limit.

The Service does not support the recommendation for use of unlimited splits during light goose seasons. In 1997, the Service allowed an increase from 2 to 3 season segments for geese in all four Flyways. This increase resulted in a more consistent use of split-season options among all Flyways. In addition, within any established season, a State may also designate certain days as non-hunt days, if that hunt strategy is desired. The use of zoning for light geese remains a management tool that is currently not contained by specific guidelines for use by a State. The Service believes that the current ability to divide a 107-day season into 3 segments with the unlimited use of zones provides adequate flexibility for States to set seasons for light geese.

The Service does not support the Central Flyway Council's proposal to eliminate the use of refuges and alternate day hunting for light geese during the spring migration period in Nebraska's Rainwater Basin area. The Service continues to have concerns about potential negative impacts on other migratory birds caused by light goose hunting during this period. The Council's current proposal would result in a termination of the experimental late-winter hunting strategy and evaluation proposed by the Council in 1997 and supported by the Service. The Service supports continuation of the experimental approach initiated in February, 1998, in order to evaluate the impacts of snow goose hunting on northern pintails, white-fronted geese, and snow geese and to investigate the influence of hunting on the incidence of avian cholera. The Service is prepared to cooperate with the Nebraska Game and Parks Commission to develop a mutually acceptable, multi-year experimental approach to hunting snow geese in this internationally significant migration area. Information gained from this experiment is critical to the development of a strategy that will contribute to reducing the abundance of the mid-continent snow goose population while minimizing the negative impacts to other migratory birds of concern. The Council's current

proposal contains no evaluation component and could concentrate birds even more than the experimental approach, contrary to the Council's and Service's objective of reducing snow goose concentrations in the area.

Further, the Service does not support the recommendation to hunt snow geese after sunset because of the problems involving incidental take of non-target species, retrieving crippled or downed birds, disturbance to roosting sites for other waterfowl, and potential safety problems created by the increasing darkness.

The Service acknowledges the Councils' requests that would require a change in the basic regulation contained in the 50 Code of Federal Regulations part 20. Such changes are beyond the scope of annual regulation changes addressed in this document. In the coming year, the Service will consider this request and will explore opportunities to initiate a process to evaluate changes in the basic regulations for the hunting of light geese when other seasons are closed, if staff time becomes available.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests and wants to obtain the comments and suggestions from all interested parties, as well as other governmental agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. However, special circumstances involved in the establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes allowing comment periods past the dates specified is contrary to public interest.

E.O. 12866 requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov.

Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, MBMO, at the address listed under the caption **ADDRESSES**. The public may inspect comments during normal business hours at the Service's office address listed under the caption **ADDRESSES**. The Service will consider all relevant comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations; those are developed annually. The annual regulations and options are being considered in the Environmental Assessment, "Waterfowl Hunting Regulations for 1998." Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Considerations

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents and will be available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to update the 1996 Small Entity Flexibility Analysis (Analysis) documenting the significant beneficial economic effect on a substantial number of small entities. The 1996 Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. The Service has updated the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey. Nationwide, the Service now estimates that migratory bird hunters will spend between $429 and $1,084 million at small businesses in 1998. Copies of the 1998 Analysis are available from the Office of Migratory Bird Management.

Executive Order (E.O.) 12866

This proposed rule is economically significant and will be reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Paperwork Reduction Act

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR Part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. OMB has approved these information collection requirements and assigned clearance number 1018–0015 (expires 08/31/1998). The renewal clearance packet for this information collection was submitted to OMB on July 22, 1998. The Service 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.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 et seq., that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1998–99 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 18, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 1998–99 Late Hunting Seasons on Certain Migratory Game Birds.

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 1998, and March 10, 1999.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway which lies west of the 100th meridian.

Definitions

For the purpose of hunting regulations listed below, the collective terms "dark" and "light" geese include the following species:

Dark geese—Canada geese, white-fronted geese, brant, and all other goose species except light geese.

Light geese—snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between October 1 and January 20.

Hunting Seasons and Duck Limits: 60 days and daily bag limit of 6 ducks, including no more than 4 mallards (2 hens), 4 scaup, 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 2 wood ducks, 2 redheads, 1 canvasback, and 4 scoters.

Closures: The season on harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck

limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. The Canada goose season is suspended throughout a major portion of the Flyway except as noted. Unless specified otherwise, seasons may be split into two segments.

Connecticut: Statewide, except for Hartford and Litchfield Counties west of the Connecticut River, a 40-day season may be held between October 1 and December 15 with a daily bag of 2. A special experimental season may be held in the South Zone between January 15 and February 15, with 5 geese per day.

Florida: A 70-day season may be held between November 15 to February 15, with 5 geese per day.

Georgia: In specific areas, a 70-day season may be held between November 15 and February 15, with a limit of 5 Canada geese per day.

Maine: A 40-day season may be held Statewide between October 1 and December 15 with a daily bag of 2.

Maryland: In designated areas, a 40-day season may be held between November 15 to January 14, with 2 geese per day. An experimental season in designated areas of western Maryland may be held from January 15 to February 15, with 5 geese per day.

Massachusetts: In the Central Zone and a portion of the Coastal Zone a 40-day season may be held between October 1 to December 15 with a daily bag of 2, and a special season may be held from January 15 to February 15, with 5 geese per day.

New Hampshire: A 40-day season may be held statewide between October 1 and December 15 with a daily bag of 2.

New Jersey: An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with 5 geese per day.

New York: In designated areas, a 70-day season may be held between November 15 and January 30, with 2 geese per day. In the Long Island Zone, a 40-day season may be held between October 1 and December 31 with a daily bag of 2. An experimental season may be held between January 15 and February 15, with 5 geese daily in designated areas of Chemung, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

North Carolina: A 46-day season may be held between October 1 and November 15, with 2 geese per day Statewide, except for the Northeast Hunt Unit and Northampton County.

Pennsylvania: In designated areas, a 40-day season may be held between November 15 to January 14, with 2 geese per day. In Erie, Mercer, and Butler Counties, a 70-day season may be held between October 1 and January 31, with 2 geese per day. In Crawford County, a 35-day season may be held between October 1 and January 20, with 1 goose per day. An experimental season may be held in the designated areas of western Pennsylvania from January 15 to February 15 with 5 geese per day.

Rhode Island: A 40-day season may be held between October 1 and December 15 with a daily bag of 2. An experimental season may be held in a designated area from January 15 to February 15, with 5 geese per day.

South Carolina: In designated areas, a 70-day season may be held during November 15 to February 15, with a daily bag limit of 5 birds.

Virginia: In designated areas, a 40-day season may be held between November 15 to January 14, with 2 geese per day. An experimental season may be held between January 15 to February 15, with 5 geese per day, in all areas west of Interstate 95.

West Virginia: a 70-day season may be held between October 1 and January 31, with 3 geese per day.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with 15 geese per day and no possession limit. States may split their seasons into three segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between October 1 and January 20, with 2 brant per day. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest October 1 (October 3) and the Sunday nearest January 20 (January 17).

Hunting Seasons and Duck Limits: 60 days with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Minnesota and Arkansas, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Mississippi Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation, by each participating State.

Season Lengths, Outside Dates, and Limits: States may select seasons for geese not to exceed 70 days for dark geese between the Saturday nearest October 1 (October 3) and January 31, and 107 days for light geese between the Saturday nearest October 1 (October 3) and March 10. The daily bag limit is 20 light geese, 2 white-fronted geese, and 2 brant. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Alabama: In the Southern James Bay Population (SJBP) Goose Zone, the season for Canada geese may not exceed 35 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: The season for Canada geese may extend for 23 days in the East

Zone and 16 days in the West Zone. In both zones, the season may extend to February 15. The daily bag limit is 2 Canada geese. In the remainder of the State, the season for Canada geese is closed. For white-fronted geese, the season may extend to February 15.

Illinois: The total harvest of Canada geese in the State will be limited to 40,800 birds. Limits are 1 Canada goose daily and 10 in possession, except for the last 14 days in each zone, when the limit is 2 Canada geese daily.

(a) North Zone—The season for Canada geese will close after 67 days or when 5,600 birds have been harvested in the Northern Illinois Quota Zone, whichever occurs first. The season may be split into 3 segments.

(b) Central Zone—The season for Canada geese will close after 67 days or when 7,100 birds have been harvested in the Central Illinois Quota Zone, whichever occurs first. The season may be split into 3 segments.

(c) South Zone—The harvest of Canada geese in the Southern Illinois and Rend Lake Quota Zones will be limited to 13,100 and 2,300 birds, respectively. The season for Canada geese in each zone will close after 67 days or when the harvest limit has been reached, whichever occurs first. In the Southern Illinois Quota Zone, if any of the following conditions exist after December 20, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

(1) Average body weights of adult female geese less than 3,200 grams as measured from a weekly sample of a minimum of 50 geese.

(2) Starvation or a major disease outbreak resulting in observed mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

In the remainder of the South Zone, the season may extend for 67 days or until both the Southern Illinois and Rend Lake Quota Zones have been closed, whichever occurs first.

Indiana: The total harvest of Canada geese in the State will be limited to 10,500 birds. The daily bag limit is 2 Canada geese.

(a) Posey County—The season for Canada geese will close after 66 days or when the Canada goose harvest at the Hovey Lake Fish and Wildlife Area exceeds 760 birds, whichever occurs first.

(b) North Zone—The season for Canada geese will close after 51 days.

(c) Remainder of the State—The season for Canada geese may extend for 56 days, except in the SJBP Zone, where the season may not exceed 35 days.

Iowa: The season may extend for 70 days. The daily bag limit is 2 Canada geese through October 31 and 1 Canada goose thereafter, except in the South Zone where the daily bag limit is 2 Canada geese beginning December 1.

Kentucky:

(a) Western Zone—The season for Canada geese may extend for 50 days (65 days in Fulton County), and the harvest will be limited to 9,000 birds. Of the 9,000-bird quota, 5,800 birds will be allocated to the Ballard Reporting Area and 1,800 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 50-day season, the season in that reporting area will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective reporting area (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 50 days (65 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 35 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 50 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 9 days. During the season, the daily bag limit for Canada and white-fronted geese is 2, no more than 1 of which may be a Canada goose. Hunters participating in the Canada goose season must possess a special permit issued by the State. The season for white-fronted geese may extend to February 15.

Michigan: The total harvest of Canada geese in the State will be limited to 22,900 birds. The framework opening date for all geese is September 19.

(a) North Zone—If the season for Canada geese opens September 19, it may extend for 16 days. If the season opens October 3 or later, it may extend for 7 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone—If the season for Canada geese opens September 19, it may extend for 16 days. If the season opens October 3 or later, it may extend for 7 days. The daily bag limit is 2 Canada geese.

(c) South Zone

(1) Allegan County GMU—The season for Canada geese will close after 21 days or when 880 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(2) Muskegon Wastewater GMU—The season for Canada geese will close after 22 days or when 280 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(3) Saginaw County GMU—The season for Canada geese will close after 50 days or when 2,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(4) Tuscola/Huron GMU—The season for Canada geese will close after 50 days or when 750 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(5) Remainder of South Zone—If the season for Canada geese opens September 19, it may extend for 16 days. The daily bag limit is 2 Canada geese, except during that portion of the season that overlaps the duck season, when the daily bag limit is one Canada goose. If the season opens October 3 or later, it may extend for 9 days with a daily bag limit of 1 Canada goose.

(d) Southern Michigan GMU—A special Canada goose season may be held between January 9 and February 7. The daily bag limit is 5 Canada geese.

(e) Central Michigan GMU—An experimental special Canada goose season may be held between January 9 and February 7. The daily bag limit is 5 Canada geese.

Minnesota:

(a) West Zone.

(1) West Central Zone—The season for Canada geese may extend for 20 days. In the Lac Qui Parle Zone, the season will close after 20 days or when 10,000 birds have been harvested, whichever occurs first. Throughout the West Central Zone, the daily bag limit is 1 Canada goose.

(2) Remainder of West Zone—The season for Canada geese may extend for 25 days. The daily bag limit is 1 Canada goose.

(b) Northwest Zone—The season for Canada geese may extend for 20 days. The daily bag limit is 1 Canada goose.

(c) Northeast Zone—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(d) Remainder of the State—The season for Canada geese may extend for 70 days, except in the Twin Cities Metro Zone and Olmsted County, where the season may not exceed 80 days. The daily bag limit is 1 Canada goose for the first 30 days of the season, and 2 Canada geese thereafter.

(e) Fergus Falls/Alexandria Zone—A special Canada goose season of up to 10 days may be held in December. During the special season, the daily bag limit is 2 Canada geese.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri:

(a) Swan Lake Zone—The season for Canada geese may extend for 40 days.

The daily bag limit is 2 Canada geese through November 30, and 1 Canada goose thereafter.

(b) Schell-Osage Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese through November 30, and 1 Canada goose thereafter.

(c) Remainder of the State:

(1) North Zone—The season for Canada geese may extend for 60 days, with no more than 30 days after November 30. The season may be split into 3 segments, provided that one segment of at least 9 days occurs prior to October 15. The daily bag limit is 2 Canada geese.

(2) Middle Zone—The season for Canada geese may extend for 60 days with no more than 30 days after November 30. The season may be split into 3 segments, provided that at least one segment occurs prior to December 1. The daily bag limit is 2 Canada geese.

(3) South Zone—The season for Canada geese may extend for 60 days. The season may be split into 3 segments, provided that at least one segment occurs prior to December 1. The daily bag limit is 2 Canada geese.

Ohio: The season may extend for 70 days in the respective duck-hunting zones, with a daily bag limit of 2 Canada geese, except in the Lake Erie SJBP Zone, where the season may not exceed 30 days and the daily bag limit is 1 Canada goose.

Tennessee:

(a) Northwest Zone—The season for Canada geese will close after 65 days or when 3,400 birds have been harvested, whichever occurs first. The season may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 50 days, and the harvest will be limited to 400 birds. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. All geese harvested must be tagged. The daily bag limit is 2 Canada geese. In lieu of the quota and tagging requirement above, the State may select either a 50-day season with a 1-bird daily bag limit or a 35-day season with a 2-bird daily bag limit for this Zone.

(d) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

Wisconsin: The total harvest of Canada geese in the State will be limited to 32,500 birds.

(a) Horicon Zone—The framework opening date for all geese is September 19. The harvest of Canada geese is limited to 15,500 birds. The season may not exceed 86 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose and the season limit will be the number of tags issued to each permittee.

(b) Collins Zone—The framework opening date for all geese is September 19. The harvest of Canada geese is limited to 500 birds. The season may not exceed 68 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose and the season limit will be the number of tags issued to each permittee.

(c) Exterior Zone—The framework opening date for all geese is October 3. The harvest of Canada geese is limited to 12,000 birds, with 500 birds allocated to the Mississippi River Subzone. The season may not exceed 49 days, except in the Mississippi River Subzone, where the season may not exceed 70 days. The daily bag limit is 1 Canada goose. In that portion of the Exterior Zone outside the Mississippi River Subzone, the progress of the harvest must be monitored, and the season closed, if necessary, to ensure that the harvest does not exceed 12,000 birds.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois, and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Northwest and Kentucky/Barkley Lakes (if applicable) Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between October 3 and January 17.

Hunting Seasons and Duck Limits:

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens) 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, and 2 wood ducks. The last 23 days may start no earlier than the Saturday nearest December 10 (December 12).

(2) Remainder of the Central Flyway: 74 days and a daily bag limit of 6 ducks, including no more than 5 mallards (no more than 2 of which may be hens), 1 mottled duck, 1 canvasback, 1 pintail, 2 redheads, and 2 wood ducks.

Merganser Limits: The daily bag limit is 5 mergansers, only 1 of which may be a hooded merganser.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, outside dates for seasons may be selected between the Saturday nearest October 1 (October 3) and the Sunday nearest February 15 (February 14), except for white-fronted geese in east tier States, where the closing date is January 31. For light geese, outside dates for seasons may be selected between the Saturday nearest October 1 (October 3) and March 10, except in the Rainwater Basin Light Goose Area of Nebraska where the closing date is February 1 in the West and March 10 in the East with temporal and spatial restrictions consistent with the experimental late-winter snow goose hunting strategy endorsed by the Central Flyway Council in July 1997.

Season Lengths and Limits:

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 93 days with a daily bag limit of 3. For white-fronted geese, these States may select either a season of 72 days with a bag limit of 2 or an 86-day season with a bag limit of 1.

In South Dakota, for Canada geese in the Power Plant Area of Dark Goose Unit 1, the daily bag limit is 3 until November 30 and 1 thereafter.

In Colorado, Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 4 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 107 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 4. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, and Common Moorhens

Hunting Seasons and Duck Limits: Concurrent 107 days and daily bag limit of 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 redheads and 1 canvasback. The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot and Common Moorhen Limits: The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest October 1 (October 3) and the Sunday nearest January 20 (January 17).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may split their seasons into two segments.

Colorado, Montana, New Mexico, and Wyoming may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits: Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 3), and the Sunday nearest January 20 (January 17), and the basic daily bag limits are 3 light geese and 4 dark geese, except in California, Oregon, and Washington, where the dark goose bag limit does not include brant.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

Brant Season—A 16-consecutive-day season may be selected in Oregon and Washington, and a 30-consecutive-day season may be selected in California. In these States, the daily bag limit is 2 brant and is in addition to dark goose limits.

Closures: There will be no open season on Aleutian Canada geese in the Pacific Flyway. The States of California, Oregon, and Washington must include a statement on the closure for that subspecies in their respective regulations leaflet. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Arizona: The daily bag limit for dark geese is 2.

California

Northeastern Zone—White-fronted geese and cackling Canada geese may be taken only during the first 23 days of the goose season. The daily bag limit is 3 geese and may include no more than 2 dark geese; including not more than 1 cackling Canada goose.

Colorado River Zone—The seasons and limits must be the same as those selected in the adjacent portion of Arizona (South Zone).

Southern Zone—The daily bag and possession limits for dark geese is 2 geese, including not more than 1 cackling Canada goose.

Balance-of-the-State Zone—A 79-day season may be selected. Limits may not include more than 3 geese per day and 6 in possession, of which not more than 2 daily and 4 in possession may be white-fronted geese and not more than 1 daily or 2 in possession may be cackling Canada geese.

Three areas in the Balance-of-the-State Zone are restricted in the hunting of certain geese:

(1) In the Counties of Del Norte and Humboldt, there will be no open season for Canada geese.

(2) In the Sacramento Valley Area, the season on white-fronted geese must end on or before December 14, and, except in the Western Canada Goose Hunt Area, there will be no open season for Canada geese.

(3) In the San Joaquin Valley Area, the hunting season for Canada geese will close no later than November 23.

Colorado: The daily bag limit for dark geese is 2 geese.

Idaho

Northern Unit—The daily bag limit is 4 geese, including 4 dark geese, but not more than 3 light geese.

Southwest Unit and Southeastern Unit—The daily bag limit on dark geese is 4.

Montana

West of Divide Zone and East of Divide Zone—The daily bag limit of dark geese is 4.

Nevada

Lincoln and Clark County Zone—The daily bag limit of dark geese is 2.

New Mexico: The daily bag limit of dark geese is 3.

Oregon: Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling Canada goose.

Harney, Lake, Klamath, and Malheur Counties Zone—The season length may be 100 days. The dark goose limit is 4, including not more than 2 white-fronted geese and 1 cackling Canada goose.

Western Zone—In the Special Canada Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 165 dusky Canada geese. See section on quota zones. In those designated areas, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Utah: The daily bag limit for dark geese is 2 geese.

Washington: The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese.

West Zone—In the Lower Columbia River Special Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 85 dusky Canada geese. See section on quota zones. In this area, the daily bag limit of dark geese is 4 and may include 4 cackling Canada geese.

Wyoming: The daily bag limit is 4 dark geese.

Quota Zones: Seasons on dark geese must end upon attainment of individual quotas of dusky Canada geese allotted to the designated areas of Oregon and Washington. The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days and the established quota of dusky Canada geese must not be exceeded.

Hunting of dark geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of Aleutian Canada geese.

In the designated areas of the Washington Quota Zone, a special late dark goose season may be held between January 23 and March 10. The daily bag limit may not include Aleutian Canada geese. In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to the Sunday closest to March 1 (Feb. 28).

Swans

In designated areas of Utah, Nevada, and the Pacific Flyway portion of Montana, an open season for taking a limited number of swans may be selected. Permits will be issued by States and will authorize each permittee to take no more than 1 swan per season. The season may open no earlier than the Saturday nearest October 1 (October 3). The States must implement a harvest-monitoring program to measure the species composition of the swan harvest. In Utah and Nevada, the harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. All States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination or, in the case of Montana, reporting bill-measurement and color information. All States must provide to the Service by June 30, 1998, a report covering harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas. These seasons will be subject to the following conditions:

In Utah, no more than 2,750 permits may be issued. The season must end no later than the first Sunday in December (December 6) or upon attainment of 15 trumpeter swans in the harvest, whichever occurs earliest.

In Nevada, no more than 650 permits may be issued. The season must end no later than the Sunday following January 1 (January 3) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In Montana, no more than 500 permits may be issued. The season must end no later than December 1.

Tundra Swans

In Central Flyway portion of Montana, and in North Carolina, North Dakota, South Dakota (east of the Missouri River), and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States and will authorize each permittee to take no more than 1 tundra swan per season. The States must obtain harvest and hunter participation data. These seasons will be subject to the following conditions:

In the Atlantic Flyway

—The season will be experimental.
—The season may be 90 days, from October 1 to January 31.
—In North Carolina, no more than 5,000 permits may be issued.
—In Virginia, no more than 600 permits may be issued.

In the Central Flyway

—The season may be 107 days and must occur during the light goose season.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,000 permits may be issued.
—In South Dakota, no more than 1,500 permits may be issued.

Area, Unit and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine border to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from Maine border in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter-Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts border.

Inland Zone: That portion of the State north and west of the above boundary.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York border in Raritan Bay and extending west along the New York border to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware border in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania border in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to U.S. 48; U.S. 48 east to the Maryland border; and along the border to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

East Zone: The remainder of Louisiana.

Catahoula Lake Area: All of Catahoula Lake, including those portions known locally as Round Prairie, Catfish Prairie, and Frazier's Arm. See State regulations for additional information.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Mississippi

Zone 1: Hancock, Harrison, and Jackson Counties.

Zone 2: The remainder of Mississippi.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border along Interstate Highway 70 to U.S. Highway 54, south along U.S.

54 to U.S. 50, then west along U.S. 50 to the Kansas border.

South Zone: That portion of Missouri south of a line running west from the Illinois border along Missouri Highway 34 to Interstate Highway 55; south along I–55 to U.S. Highway 62, west along U.S. 62 to Missouri 53, north along Missouri 53 to Missouri 51, north along Missouri 51 to U.S. 60, west along U.S. 60 to Missouri 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to Missouri 32, south along Missouri 32 to Missouri 97, south along Missouri 97 to Dade County NN, west along Dade County NN to Missouri 37, west along Missouri 37 to Jasper County N, west along Jasper County N to Jasper County M, west along Jasper County M to the Kansas border.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking (excluding the Buckeye Lake Area), Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof.

Ohio River Zone: The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

South Zone: That portion of the State between the North and Ohio River Zone boundaries, including the Buckeye Lake Area in Licking County bounded on the west by State Highway 37, on the north by U.S. Highway 40, and on the east by State 13.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota border along State Highway 77 to State 27, south along State 27 and 77 to U.S. Highway 63, and continuing south along State 27 to Sawyer County Road B, south and east along County B to State 70, southwest along State 70 to State 27, south along State 27 to State 64, west along State 64/27 and south along State 27 to U.S. 12, south and east on State 27/U.S. 12 to U.S. 10, east on U.S. 10 to State 310, east along State 310 to State 42, north along State 42 to State 147, north along State 147 to State 163, north along State 163 to Kewaunee County Trunk A, north along County Trunk A to State 57, north along State 57 to the Kewaunee/Door County Line, west along the Kewaunee/Door County Line to the Door/Brown County Line, west along the Door/Brown County Line to the Door/Oconto/Brown County Line, northeast along the Door/Oconto County Line to the Marinette/Door County Line, northeast along the Marinette/Door County Line to the Michigan border.

South Zone: The remainder of Wisconsin.

Central Flyway

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of the State west of Highways U.S. 183 and U.S. 20 from the South Dakota border to Ainsworth, NE 7 and NE 91 to Dunning, NE 2 to Merna, NE 92 to Arnold, NE 40 and NE 47 through Gothenburg to NE 23, NE 23 to Elwood, and U.S. 283 to the Kansas border.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north and east of a line extending from the South Dakota border along NE 26E Spur to U.S. 20, west on U.S. 20 to NE 12, west on NE 12 to the Knox/Keya Paha County line, south along the county line to the Niobrara River and along the Niobrara River to U.S. 183 (the High Plains Zone line). Where the Niobrara River forms the boundary, both banks will be in Zone 1.

Low Plains Zone 2: That portion of the State east of the High Plains Zone and bounded by designated highways and political boundaries starting on U.S. 73 at the Kansas border, north to NE 67, north to U.S. 75, north to NE 2, west to NE 43, north to U.S. 34, east to NE 63; north and west to U.S. 77; north to NE 92; west to U.S. 81; south to NE 66; west to NE 14; south to U.S. 34; west to NE 2; south to I–80; west to Hamilton/Hall County line (Gunbarrel Road), south to Giltner Road; west to U.S. 34; west to U.S. 136; east on U.S. 136 to NE 10; south to the State line; west to U.S. 283; north to NE 23; west to NE 47; north to U.S. 30; east to NE 14; north to NE 52; northeasterly to NE 91; west to U.S. 281, north to NE 91 in Wheeler County, west to U.S. 183; north to northerly boundary of Loup County; east along the north boundaries of Loup, Garfield, and Wheeler County; south along the east Wheeler County line to NE 70; east on NE 70 from Wheeler County to NE 14; south to NE 39; southeast to NE 22; east to U.S. 81; southeast to U.S. 30; east along U.S. 30 to U.S. 75, north along U.S. 75 to the Washington/Burt County line; then east along the county line to the Iowa border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota border along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the

Texas border along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, west along OK 33 to I–35, north along I–35 to U.S. 60, west along U.S. 60 to U.S. 64, west along U.S. 64 to OK 132, then north along OK 132 to the Kansas border.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Unit: That portion of the State west of a line beginning at the North Dakota border and extending south along U.S. 83 to U.S. 14, east along U.S. 14 to Blunt-Canning Road in Blunt, south along Blunt-Canning Road to SD 34, east to SD 47, south to I–90, east to SD 47, south to SD 49, south to Colome and then continuing south on U.S. 183 to the Nebraska border.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along US 212 to SD 15, then north along SD 15 to Big Stone Lake at the Minnesota border.

South Zone: That portion of Gregory County east of SD 47, Charles Mix County south of SD 44 to the Douglas County line, south on SD 50 to Geddes, east on the Geddes Hwy. to U.S. 281, south on U.S. 281 and U.S. 18 to SD 50, south and east on SD 50 to Bon Homme County line, the Counties of Bon Homme, Yankton, and Clay south of SD 50, and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma border along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana border at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, Washakie, and that portion of Park County south of T58N and not within the boundary of the Shoshone National Forest.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona—Game Management Units (GMU) as follows:

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of ID 75, south and east of U.S. 93, and between ID 75 and U.S. 93 north of U.S. 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Blaine between ID 75 and U.S. 93 south of U.S. 20 and that additional area between ID 75 and U.S. 93 north of U.S. 20 within the Silver Creek drainage; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Geese

Atlantic Flyway

Connecticut

Same zones as for ducks.

Maryland

Special Regular and Late Seasons for Canada Geese: Allegheny, Carroll, Frederick, Garrett, Washington counties and the portion of Montgomery County south of Interstate 270 and west of Interstate 495 to the Potomac River.

Massachusetts

Special Area for Canada Geese: Central Zone (same as for ducks) and that portion of the Coastal Zone that lies north of route 139 from Green Harbor.

New Hampshire

Same zones as for ducks.

New Jersey

Special Area for Canada Geese:

North—that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South—that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to the Garden State Parkway; then south along the Garden State Parkway to Route 9; then south along Route 9 to Route 542; then west along Route 542 to the Mullica River (at Pleasant Mills); then north (upstream) along the Mullica River to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then south along Route 49 to Route 50; then east along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Special Late Season Area for Canada Geese: that area of Chemung County lying east of a continuous line extending south along State Route 13 from the Schuyler County line to State Route 17 and then south along Route 17 to the New York-Pennsylvania boundary; all of Tioga and Broome Counties; that area of Delaware, Sullivan, and Orange Counties lying southwest of a continuous line extending east along State Route 17 from the Broome County line to U.S. Route 209 at Wurtsboro and then south along Route 209 to the New York-Pennsylvania boundary at Port Jervis, excluding areas on or within 50 yards of the Delaware River between the confluence of the West Branch and East Branch below Hancock and the mouth of the Shingle Kill (3 miles upstream from Port Jervis); that area of Orange, Rockland, Dutchess, Putnam and Westchester Counties lying southeast of a continuous line extending north along Route 17 from the New York-New Jersey boundary at Suffern to Interstate Route 87, then north along Route 87 to Interstate Route 84, then east along Route 84 to the northern boundary of Putnam County, then east along that boundary to the New York-Connecticut boundary; that area of Nassau and Suffolk Counties lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

Regular Season Area in Southwest for Canada Geese: all of Allegany, Cattaraugus, and Chautaugua Counties; that area of Erie, Wyoming and Niagara Counties lying south and west of a continuous line extending from the Rainbow Bridge below Niagara Falls, north along the Robert Moses Parkway to US Route 62A, then east along Route 62A to US Route 62, then southeast along US Route 62 to Interstate Route 290, then south along Route 290 to Exit 50 of the NYS Thruway, then east along I-90 to State Route 98, then south along State Route 98 to the Cattaraugus County line; and that area of Steuben and Chemung Counties lying south of State Route 17.

North Carolina

Regular Season for Canada Geese: Statewide, except for Northampton County and the Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Erie, Mercer, and Butler Counties: All of Erie, Mercer, and Butler Counties.

Regular Season Area for Canada Geese: Area from New York State line west of U.S. Route 220 to intersection of I–180, west of I–180 to intersection of SR 147, west of SR 147 to intersection of U.S. Route 322, west of U.S. Route 322 to intersection of I–81, west of I–81 to intersection of I–83, west of I–83 to I–283, west of I–283 to SR 441, west of SR 441 to U.S. Route 30, west of U.S. Route 30 to I–83, west of I–83 to Maryland State line, except for the Counties of Erie, Mercer, Butler, and Crawford.

Special Late Season Area for Canada Geese: Same as Regular Season Area and the area from New York State line east of U.S. Route 220 to intersection of I–180, east of I–180 to intersection of SR 147, east of SR 147 to intersection of U.S. Route 322, east of Route 322 to intersection of I–81, north of I-81 to intersection of I–80, north of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County and that portion of Lake Marion in Orangeburg County and Berkeley County.

Virginia

Regular and Special Late Season Area for Canada Geese: All areas west of I–95.

Back Bay Area: Defined for white geese as the waters of Back Bay and its

tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

East Zone: Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff Counties.

West Zone: Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, Izard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sharp, Stone, Van Buren, and Washington Counties, and those portions of Logan, Perry, Sebastian, and Yell Counties lying north of a line extending east from the Oklahoma border along State Highway 10 to Perry, south on State 9 to State 60, then east on State 60 to the Faulkner County line.

Illinois

Same zones as for ducks, but in addition:

North Zone:

Northern Illinois Quota Zone: The Counties of McHenry, Lake, Kane, DuPage, and those portions of LaSalle and Will Counties north of Interstate Highway 80.

Central Zone:

Central Illinois Quota Zone: The Counties of Grundy, Woodford, Peoria, Knox, Fulton, Tazewell, Mason, Cass, Morgan, Pike, Calhoun, and Jersey, and those portions of LaSalle and Will Counties south of Interstate Highway 80.

South Zone:

Southern Illinois Quota Zone: Alexander, Jackson, Union, and Williamson Counties.

Rend Lake Quota Zone: Franklin and Jefferson Counties.

Indiana

Same zones as for ducks, but in addition:

SJBP Zone: Jasper, LaGrange, LaPorte, Starke, and Steuben Counties, and that portion of the Jasper-Pulaski Fish and Wildlife Area in Pulaski County.

Iowa

Same zones as for ducks.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana border.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

Same zones as for ducks, but in addition:

South Zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly ½ mile along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons

Southern Michigan GMU: That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I–69, westerly along I–69 to Michigan Highway 21, westerly along Michigan 21 to I–96, northerly along I–96 to I–196, westerly along I–196 to Lake Michigan Drive (M–45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

Central Michigan GMU: That portion of the South Zone north of the Southern Michigan GMU, excluding the Tuscola/Huron GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

West Zone: That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west

along CSAH 30 to County Road 70 in Lac qui Parle County, west along County 70 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Lac qui Parle Zone: That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County 65 to County 34 in Chippewa County, south along County 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

Northwest Zone: That portion of the state encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Northeast Zone: That portion of the state encompassed by the following boundary: Beginning on State Trunk Highway (STH) 72 at the northern boundary of the state, thence along STH 72 to the Tamarac River in Beltrami County, thence along the southerly shore of the Tamarac River to Upper Red Lake, thence along the easterly and southerly shores of Upper Red Lake to the easterly boundary of the Red Lake Indian Reservation, thence along the easterly boundary of said Reservation to STH 1, thence along STH 1 to STH 72, thence along STH 72 to U.S. Highway 71, thence along U.S. 71 to County State Aid Highway (CSAH) 39 in Beltrami County, thence along CSAH 39 to CSAH 20, thence along CSAH 20 to CSAH 53, thence along CSAH 53 to CSAH 12, thence along CSAH 12 to CSAH 51, thence along CSAH 51 to CSAH 8, thence along CSAH 8 to CSAH 25, thence along CSAH 25 to CSAH 4, thence along CSAH 4 to CSAH 46, thence along CSAH 46 to U.S. Highway 2, thence along U.S. 2 to CSAH 45, thence along CSAH 45 to CSAH 9, thence along CSAH 9 to CSAH 69, thence along CSAH 69 to CSAH 5, thence along CSAH 5 to CSAH 39, thence along CSAH 39 to County Road (CR) 94, thence along CR 94 to CSAH 31, thence along CSAH 31 to STH 200, thence along STH 200 to STH 371, thence along STH 371 to STH 84, thence along STH 84 to CSAH 2, thence along CSAH 2 to CSAH 1, thence along CSAH 1 to STH 6, thence along STH 6 to STH 18, thence along STH 18 to U.S. Highway 169, thence due east to the west shore of Mille Lacs Lake, thence along the westerly and southerly shores of said lake to a point due north of the junction of U.S. 169 and STH 27, thence due south to said junction, thence along U.S. 169 to STH 23, thence along STH 23 to STH 65, thence along STH 65 to STH 70, thence along STH 70 to the east boundary of the state, thence along the easterly and northerly boundaries of the state to the point of beginning.

Special Canada Goose Seasons

Fergus Falls/Alexandria Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 55 and STH 28 and extending east along STH 28 to County State Aid Highway (CSAH) 33 in Pope County, north along CSAH 33 to CSAH 3 in Douglas County, north along CSAH 3 to CSAH 69 in Otter Tail County, north along CSAH 69 to CSAH 46 in Otter Tail County, east along CSAH 46 to the eastern boundary of Otter Tail County, north along the east boundary of Otter Tail County to CSAH 40 in Otter Tail County, west along CSAH 40 to CSAH 75 in Otter Tail County, north along CSAH 75 to STH 210, west along STH 210 to STH 108, north along STH 108 to CSAH 1 in Otter Tail County, west along CSAH 1 to CSAH 14 in Otter Tail County, north along CSAH 14 to CSAH 44 in Otter Tail County, west along CSAH 44 to CSAH 35 in Otter Tail County, north along CSAH 35 to STH 108, west along STH 108 to CSAH 19 in Wilkin County, south along CSAH 19 to STH 55, then southeast along STH 55 to the point of beginning.

Missouri

Same zones as for ducks but in addition:

North Zone.

Swan Lake Zone: That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

Middle Zone

Schell-Osage Zone: That portion of the State encompassed by a line extending east from the Kansas border along U.S. Highway 54 to Missouri Highway 13, north along Missouri 13 to Missouri 7, west along Missouri 7 to U.S. 71, north along U.S. 71 to Missouri 2, then west along Missouri 2 to the Kansas border.

Ohio

Same zones as for ducks but in addition:

North Zone.

Lake Erie SJBP Zone: That portion of the State encompassed by a line extending south from the Michigan border along Interstate Highway 75 to I–280, south along I–280 to I–80, and east along I–80 to the Pennsylvania border.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border.

Wisconsin

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County,

westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to U.S. Highway 16, westerly along U.S. 16 to Weyh Road, southerly along Weyh Road to County Highway O, southerly along County O to the west boundary of Section 31, southerly along the west boundary of Section 31 to the Sauk/Columbia County boundary, southerly along the Sauk/Columbia County boundary to State 33, easterly along State 33 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly and southerly along Poplar Grove Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern Railway and the Illinois border in Grant County and extending northerly along the Burlington Northern Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

Rock Prairie Subzone: That area encompassed by a line beginning at the intersection of the Illinois border and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois border.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All lands in Adams, Boulder, Clear Creek, Denver, Gilpin, Jefferson, Larimer, and Weld Counties west of I–25 from the Wyoming border south to I–70; west on I–70 to the Continental Divide; north along the Continental Divide to the Jackson-Larimer County Line to the Wyoming border.

South Park/San Luis Valley Area: Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Teller, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide.

North Park Area: Jackson County.

Arkansas Valley Area: Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties.

Pueblo County Area: Pueblo County.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Kansas

Light Geese

Unit 1: That portion of Kansas east of a line beginning at the intersection of the Nebraska border and KS 99, extending south along KS 99 to I–70 to U.S. 75, south on U.S. 75 to U.S. 54, west on U.S. 54 to KS 99, and then south on KS 99 to the Oklahoma border.

Unit 2: The remainder of Kansas, laying west of Unit 1.

Dark Geese

Marais des Cygnes Valley Unit: The area is bounded by the Missouri border to KS 68, KS 68 to U.S. 169, U.S. 169 to KS 7, KS 7 to KS 31, KS 31 to U.S. 69, U.S. 69 to KS 239, KS 239 to the Missouri border.

South Flint Hills Unit: The area is bounded by highways U.S. 50 to KS 57, KS 57 to U.S. 75, U.S. 75 to KS 39, KS 39 to KS 96, KS 96 to U.S. 77, U.S. 77 to U.S. 50.

Central Flint Hills Unit: That area southwest of Topeka bounded by Highways U.S. 75 to I–35, I–35 to U.S. 50, U.S. 50 to U.S. 77, U.S. 77 to I–70, I–70 to U.S. 75.

Southeast unit: That area of southeast Kansas bounded by the Missouri border to U.S. 160, U.S. 160 to U.S. 69, U.S. 69 to KS 39, KS 39 to U.S. 169, U.S. 169 to the Oklahoma border, and the Oklahoma border to the Missouri border.

Montana (Central Flyway Portion)

Sheridan County: Includes all of Sheridan County.

Remainder: Includes the remainder of the Central Flyway portion of Montana.

Nebraska

Dark Geese

North Unit: Keya Paha County east of U.S. 183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

Southwest Unit: That area south and west of U.S. 281 at the Kansas/Nebraska border, north to Gunbarrel Road (at Doniphan), east to NE 14, north to NE 91, west to U.S. 183, south to NE 92, west to NE 61, north to U.S. 2, west to the intersection of Garden, Grant, and Sheridan counties, then west along the northern border of Garden, Morrill, and Scotts Bluff counties to the Wyoming border.

Northwest Unit: That area north of the Southwest Unit and west of U.S. 183.

East Unit: The remainder of Nebraska.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and NS 30 at Grand Island, north and east on U.S. 30 to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese.

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Dark Geese

Missouri River Zone: That area encompassed by a line extending from the South Dakota border north on U.S. 83 and I–94 to ND 41, north to ND 53,

west to U.S. 83, north to ND 23, west to ND 37, south to ND 1804, south approximately 9 miles to Elbowoods Bay on Lake Sakakawea, south and west across the lake to ND 8, south to ND 200, east to ND 31, south to ND 25, south to I–94, east to ND 6, south to the South Dakota border, and east to the point of origin.

Statewide: All of North Dakota.

South Dakota

Dark Geese

Unit 1: Statewide except for Units 2 and 3.

Power Plant Area: That portion of Grant County east of SD 15 and north of SD 20.

Unit 2: Brule, Buffalo, Campbell, Dewey, Hughes, Hyde, Lyman, Potter, Stanley, Sully, and Walworth Counties and that portion of Corson County east of State Highway 65.

Unit 3: Charles Mix and Gregory Counties.

Texas

West Unit: That portion of the State laying west of a line from the international toll bridge at Laredo; north along I–35 and I–35W to Fort Worth; northwest along U.S. 81 and U.S. 287 to Bowie; and north along U.S. 81 to the Oklahoma border.

East Unit: Remainder of State.

Wyoming (Central Flyway Portion)

Area 1: Converse, Hot Springs, Natrona, and Washakie Counties, and that portion of Park County south of T58N.

Area 2: Platte County.

Area 3: Albany, Big Horn, Campbell, Crook, Fremont, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties and those portions of Carbon County east of the Continental Divide and Park County north of T58N.

Area 4: Goshen County.

Pacific Flyway

Arizona

GMU 22 and 23: Game Management Units 22 and 23.

Remainder of State: The remainder of Arizona.

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

Del Norte and Humboldt Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Area: That area bounded by a line beginning at Willows in Glenn County proceeding south on I–5 to Hahn Road north of Arbuckle in Colusa County; easterly on Hahn Road and the Grimes Arbuckle Road to Grimes on the Sacramento River; southerly on the Sacramento River to the Tisdale Bypass to O'Banion Road; easterly on O'Banion Road to CA 99; northerly on CA 99 to the Gridley-Colusa Highway in Gridley in Butte County; westerly on the Gridley-Colusa Highway to the River Road; northerly on the River Road to the Princeton Ferry; westerly across the Sacramento River to CA 45; northerly on CA 45 to CA 162; northerly on CA 45–162 to Glenn; westerly on CA 162 to the point of beginning in Willows.

Western Canada Goose Hunt Area: That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to CA 20; and westerly along CA 20 to the Sacramento River.

San Joaquin Valley Area: That area bounded by a line beginning at Modesto in Stanislaus County proceeding west on CA 132 to I–5; southerly on I–5 to CA 152 in Merced County; easterly on CA 152 to CA 165; northerly on CA 165 to CA 99 at Merced; northerly and westerly on CA 99 to the point of beginning.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Zone 2: The Counties of Ada; Adams; Boise; Canyon; those portions of Elmore north and east of I–84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; Valley; and Washington.

Zone 3: The Counties of Blaine; Camas; Cassia; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville, Butte; Caribou except the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of ID 37 and ID 39 except the Minidoka National Wildlife Refuge; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir

drainage; and Power County east of ID 37 and ID 39.

In addition, goose frameworks are set by the following geographical areas: Northern Unit: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Southwestern Unit: That area west of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border (except the Northern Unit and except Custer and Lemhi Counties).

Southeastern Unit: That area east of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93.to the Montana border, including all of Custer and Lemhi Counties.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Southwest Zone: Douglas, Coos, Curry, Josephine and Jackson Counties.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to OR 36; then north on OR 36 to Forest Road 5070 at Brickerville; then west and south on Forest Road 5070 to OR 126; then west on OR 126 to the Pacific Coast.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone.

Closed Zone: Those portions of Coos, Curry, Douglas and Lane Counties west of US 101.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Harney, Klamath, Lake and Malheur Counties Zone: All of Harney, Klamath, Lake, and Malheur Counties.

Utah

Washington County Zone: All of Washington County.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Eastern Washington: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Area 1: Lincoln, Spokane, and Walla Walla Counties; that part of Grant County east of a line beginning at the Douglas-Lincoln County line on WA 174, southwest on WA 174 to WA 155, south on WA 155 to US 2, southwest on US 2 to Pinto Ridge Road, south on Pinto Ridge Road to WA 28, east on WA 28 to the Stratford Road, south on the Stratford Road to WA 17, south on WA 17 to the Grant-Adams County line; those parts of Adams County east of State Highway 17; those parts of Franklin County east and south of a line beginning at the Adams-Franklin County line on WA 17, south on WA 17 to US 395, south on US 395 to I–182, west on I–182 to the Franklin-Benton County line; those parts of Benton County south of I–182 and I–82; and those parts of Klickitat County east of U.S. Highway 97.

Area 2: All of Okanongan, Douglas, and Kittitas Counties and those parts of Grant, Adams, Franklin, and Benton Counties not included in Eastern Washington Goose Management Area 1.

Area 3: All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

Western Washington: All areas west of the East Zone.

Area 1: Skagit, Island, and Snohomish Counties.

Area 2: Clark County, except portions south of the Washougal River, Cowlitz, Pacific, and Wahkiakum Counties, and that portion of Grays Harbor County south of U.S. highway 12 and east of U.S. highway 101.

Area 3: All parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

Lower Columbia River Early-Season Canada Goose Zone: Beginning at the Washington-Oregon border on the I–5 Bridge near Vancouver, Washington; north on I–5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-Oregon border; upstream along the Washington-Oregon border to the point of origin.

Wyoming (Pacific Flyway Portion): See State Regulations.

Bear River Area: That portion of Lincoln County described in State regulations.

Salt River Area: That portion of Lincoln County described in State regulations.

Eden-Farson Area: Those portions of Sweetwater and Sublette Counties described in State regulations.

Swans

Central Flyway

South Dakota

Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box, Elder, Weber, Davis, Salt Lake, and Toole Counties lying south of State Hwy 30, I–80/84, west of I–15, and north of I–80.

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federal register

Tuesday
August 25, 1998

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 14 and 17

Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 14 and 17

[Docket No. 29310; Notice No. 98–8]

RIN 2120–AG19

Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes regulations for the conduct of protests and contract disputes under the Federal Aviation Administration Acquisition Management System. The proposed regulations set forth procedures for the efficient management of protests and contract disputes within the Federal Aviation Administration procurement system. The regulations would allow protesters and contractors a uniform, economical means of pursuing protests and contract disputes with the Federal Aviation Administration. Also, the Federal Aviation Administration regulations governing the application for, and award of, Equal Access to Justice Act fees are amended to include procedures applicable to the resolution of protests and contract disputes under the Acquisition Management System, and to conform to the current Equal Access to Justice Act statute.

DATES: Comments must be received on or before October 26, 1998.

ADDRESSES: Comments on this notice may be delivered or mailed, in triplicate, to: U.S. Department of Transportation Dockets, Docket No.: FAA–98–29310, 400 Seventh Street, SW., Room 401, Washington, DC 20591. Comments submitted must be marked: "Docket No. 29310." Comments may also be sent electronically to the following Internet address: 9-NPRM-CMTS@faa.dot.gov. Comments may be filed and examined in Room Plaza 401 between 10:00 a.m. and 5:00 p.m., weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marie A. Collins, Staff Attorney and Dispute Resolution Officer, FAA Office of Dispute Resolution for Acquisition, AGC–70, Room 8332, Federal Aviation Administration, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366–6400.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. 29310." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Government Printing Office's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (800) 322–2772 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the Government Printing Office's webpage at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Statement of the Problem

In accordance with Congressional mandate, the FAA procures, acquires, and develops services as well as material in support of its mission of safety in civil aviation. In recent years, the FAA acquisition system was hampered both by the number of procurement and acquisition laws and by the different forums that heard and decided procurement protests and contract disputes. Both the Administration and the Congress became concerned that the safety mission of the FAA might suffer from the complexity of the existing acquisition system.

In the Fiscal Year 1996 Department of Transportation Appropriations Act, Pub. L. 104–50, 109 Stat. 436 (November 15, 1995), the Congress directed the FAA "to develop and implement, not later than April 1, 1996, an acquisition management system that addressed the unique needs of the agency and, at a minimum, provided for more timely and cost effective acquisitions of equipment and materials." In that Act, the Congress instructed the FAA to design the system notwithstanding provisions of federal acquisition law, and specifically instructed the FAA not to use certain provisions of federal acquisition law. In response, the FAA developed the Acquisition Management System (AMS) for the management of FAA procurement. The AMS is a system of policy guidance that maximizes the use of agency discretion in the interest of best business practice. As a part of the AMS, the FAA created the Office of Dispute Resolution for Acquisition (ODRA) to facilitate the Administrator's review of procurement protests and contract disputes. Notice of establishment of the ODRA was published on May 14, 1996, in the **Federal Register** (61 FR 24348). In that notice, the FAA stated it would promulgate rules of procedure governing the dispute resolution process. Currently, procedures and other provisions related to dispute resolution are included or referenced in all FAA Screening Information Requests (SIRs) and contracts, and are made available to offerors and contractors upon request or through briefings. The FAA has determined that it will be more

effective and efficient to establish by rulemaking the dispute resolution procedures that apply to all protests concerning SIRs and contract awards, and to all disputes arising from established contracts. The proposed rule is designed to contain the minimum procedures necessary for efficient and orderly resolution of protests and contract disputes arising under the AMS.

The FAA Dispute Resolution Process, and the procedures implementing that process, are based upon the powers Congress delegated to the Administrator of the FAA under Title 49, United States Code, Subtitle VII (49 U.S.C. 40101, *et seq.*). These delegated powers include the Administrator's power to procure goods and services, and to investigate and hold hearings regarding any matter placed under the Administrator's authority. In the Federal Aviation Reauthorization Act of 1996, Pub. L. 104–264 (October 9, 1996), the Congress altered 49 U.S.C. 106(f) to make the Administrator of the FAA the final authority over the FAA procurement process.

These FAA dispute resolution procedures will encourage the parties to protests and contract disputes to use Alternate Dispute Resolution (ADR) as the primary means to resolve protests and contract disputes, pursuant to the Administrative Dispute Resolution Act of 1996, Pub. L. 104–320, 5 U.S.C. 570–579, and in consonance with Department of Transportation and FAA policies to utilize ADR to the maximum extent practicable. Under these procedures, the ODRA would actively encourage parties to consider ADR techniques such as case evaluation, mediation, arbitration, or other types of ADR.

The procedures for protests and contract disputes anticipate that, for a variety of reasons, certain disputes are not amenable to resolution through ADR. In other cases, ADR may not result in full resolution of a dispute. Thus, there is provision for a Default Adjudicative Process in part 17. The EAJA, 5 U.S.C. 504, can apply in instances where an eligible protester or contractor prevails over the FAA in the Default Adjudicative Process. Title 14 of the Code of Federal Regulations, Part 14 is amended to provide guidance for the conduct of EAJA applications under the dispute resolution regulations promulgated in 14 CFR part 17.

General Discussion of the Proposals

14 CFR Part 14

The dispute resolution procedures in part 17 can include adversary adjudication, where the FAA program office responsible for the procurement activity is represented by counsel. The FAA EAJA regulations, 14 CFR part 14, would be amended to include procedures applicable to part 17. Also, part 14 would be amended to conform to changes made in the EAJA statute since the initial regulations were issued.

14 CFR Part 17

The proposed procedures implement the FAA Dispute Resolution Process under the direction of the Director of the ODRA. The procedures are designed to promote resolution of protests and contract disputes without formal adjudication. This process promotes informal resolution prior to and during direct ODRA involvement. The procedures promote the use of ADR, with the use of the Default Adjudicative Process available if ADR cannot resolve a protest or contract dispute.

Under Title 49, the Administrator has final authority with respect to the procurement of goods and services. That final authority is exercised when the Administrator approves or rejects an ODRA recommendation by a final order. Under Title 49, review of a final order by the Administrator must be sought in the U.S. courts of appeals.

Part 17 is organized along functional lines. Subpart A addresses general matters such as protective orders, filing, computing time, and the delegation of authority to the Director of the ODRA. Subpart B addresses initial matters pertaining to protests, including procedures for the use of ADR or for resort to the Default Adjudicative Process. Subpart C addresses initial matters pertaining to contract disputes, including procedures for use of ADR or for resort to the Default Adjudicative Process. Subpart D addresses the initiation and conduct of ADR. Subpart E addresses the Default Adjudicative Process. Subpart F addresses when a final order has been issued by the Administrator, and seeking review of a final order in a U.S. court of appeals.

Section-by-Section Discussion of the Proposals

14 CFR Part 14

Subpart A—General provisions

Section 14.02 Proceedings Covered

Section 14.02 would be amended to include adversary adjudication under the AMS.

Section 14.03 Eligibility of Applicants

Section 14.03(a) would be amended to add notice of the eligibility requirements set forth in 5 U.S.C. 504(b)(1)(B).

Section 14.03(f) would be amended to add the term "adjudicative officer" to the term "administrative law judge (ALJ)" for proceedings held under 14 CFR part 17 and the AMS.

Section 14.05 Allowance Fees and Expenses

Section 14.05(b) would be amended to alter the maximum hourly rate awarded for attorney's fees from $75 per hour to $125 per hour in order to conform to the revision of the EAJA statute in Pub. L. 104–121 (March 29, 1996).

Section 14.05(c) would be amended to add the term "adjudicative officer" for proceedings held under 14 CFR part 17 and the AMS.

Section 14.05(e) would be amended to reflect that the adversarial portion of a proceeding under 14 CFR part 17 and the AMS commences with the initiation of the adjudicative phase of the proceedings.

Subpart B—Information Required From Applicants

Section 14.11 Net Worth Exhibit

Section 14.11(c) would be amended to add the term "adjudicative officer" for proceedings held under 14 CFR part 17 and the AMS.

Subpart C—Procedures for Considering Applications

Section 14.20 When an Application May Be Filed

Section 14.20(a) would be amended to reflect that adversary proceedings under 14 CFR part 17 and the AMS conclude with the service of an order from the Administrator.

Section 14.20(c) would be amended to add a new paragraph (1) noting that the date of service of an order from the Administrator is the date of final disposition for proceedings under 14 CFR part 17 and the AMS; previous paragraphs (1) through (4) are renumbered (2) through (5) without change.

Section 14.21 Filing and Service of Documents

Section 14.21 would be amended to add the requirement that an application for award or other filing for proceedings under 14 CFR part 17 and the AMS must be filed with the opposing FAA attorney and the ODRA.

Section 14.22 Answer to Application

Section 14.22(b) would be amended to add the term "adjudicative officer" for proceedings held under 14 CFR part 17 and the AMS.

Section 14.24 Comments by Other Parties

Section 14.24(b) would be amended to add the term "adjudicative officer" for proceedings held under 14 CFR part 17 and the AMS.

Section 14.26 Further Proceedings

Section 14.26(a) would be amended to add the term "adjudicative officer" for proceedings held under 14 CFR part 17 and the AMS.

Section 14.27 Decision

Section 14.27 would be amended to add a new paragraph (b), requiring the adjudicative officer to prepare findings and recommendations concerning proceedings under 14 CFR part 17 and the AMS for the ODRA. Paragraph (c) sets forth the content of the initial decision of the ALJ in paragraph (a), and the findings and recommendations for the ODRA in paragraph (b).

Section 14.28 Review by FAA Decisionmaker

Section 14.28 would be amended to distinguish between proceedings under part 13 using an ALJ in paragraph (a), and proceedings under 14 CFR part 17 and the AMS in paragraph (b). A new paragraph (b) is added, requiring that, in proceedings under 14 CFR part 17 and the AMS, the adjudicative officer prepares findings and recommendations for the ODRA with recommendations as to whether or not an award should be made, the amount of the award, and the reasons therefor. The ODRA should submit a recommended order to the Administrator within sixty (60) business days after completion of all submissions related to the EAJA application. Upon the Administrator's action, the order shall become final, and may be reviewed under 49 U.S.C. § 46110.

14 CFR Part 17

Subpart A—General

Section 17.1 Applicability and Purpose

Proposed § 17.1 would apply part 17 to all protests or contract disputes against the FAA arising from or relating to contracts entered into under the AMS.

Section 17.3 Definitions

Proposed § 17.3 would define certain terms used in this part. Of special note is that the definition for "interested party" pertains only to protests and to specific parties, and that a "contract dispute" does not require a final Contracting Officer (CO) decision, nor that the issue be in dispute. Part 17 defines the "Program Office" as the party representing the FAA in a protest or a contract dispute, and includes the responsible FAA procurement organization, the CO, and the assigned FAA legal counsel.

Section 17.5 Delegation of Authority

Proposed § 17.5(a) would set forth the delegation of the Administrator's authority to the Director of the Office of Dispute Resolution for Acquisition.

Proposed § 17.5(b) would state that the authority which has been delegated to the Director of the Office of Dispute Resolution for Acquisition may be re-delegated by the Director, Office of Dispute Resolution for Acquisition to a DRO or Special Master in order to resolve issues pertaining to protests or contract disputes.

Section 17.7 Filing and Computation of Time

Proposed § 17.7 would set forth the procedural requirements for filing a protest or contract dispute with the ODRA.

Proposed § 17.7(a) would set forth two important aspects of filing a protest or contract dispute with the ODRA. First, in addition to mail, overnight delivery, or hand delivery, a protest or contract dispute may be filed by facsimile. Second, there is no "mail box rule." A filing must be received by the ODRA by the close of its normal business hours " 5:00 p.m. (EST or EDT, whichever is in use)—on the last day of a given period, or the filing will be rejected as untimely.

Proposed § 17.7(b) would allow all submissions after the initial filing to be performed by any means available in paragraph (a).

Proposed § 17.7(c) would note that time limits stated in part 17 are calculated in business days only. The day of the event which starts the running of a time period is not counted, but the last day is counted, except where the last day falls on a weekend or federal holiday.

Proposed § 17.7(d) would inform the party wishing to seek judicial review of a final order that the procedures set forth in 49 U.S.C. 46110 shall govern. Please note that, independently of 49 U.S.C. 46110, proposed § 17.7(d) would require service of a copy of the petition for review upon the ODRA and the FAA attorney of record when the petition is filed with the court.

Section 17.9 Protective Orders

Proposed § 17.9 would address the formulation and use of protective orders. Many procurement protests or contract disputes potentially involve the use of trade secrets or confidential commercial information.

Proposed § 17.9(a) would state that the ODRA may issue protective orders upon the request of any party or on its own initiative. Proposed § 17.9(b) would set forth the requirements for a protective order.

Proposed § 17.9(c) would set forth the procedures for the access of counsel or consultants to material protected under the terms of a protective order. Persons participating in the protective order process must apply for access, and attest to a professional relationship with the party represented, and not be involved in competitive decisionmaking, as discussed in *U.S. Steel Corp.* v. *United States,* 730 F.2d 1465 (Fed. Cir. 1984).

Proposed § 17.9(d) would provide notice that sanctions are available against a person who violates the terms of a protective order agreement.

Proposed § 17.9(e) would allow the parties to agree upon what material may be covered by a protective order, subject to the approval of the Director of the ODRA.

Subpart B—Protests

Section 17.11 Matters Not Subject to Protest

Proposed § 17.11 would set forth those procurement actions that are not subject to protest before the ODRA.

Section 17.13 Dispute Resolution Process for Protests

Proposed § 17.13 would outline the FAA Dispute Resolution Process for protests, emphasizing efficient and rapid resolution consistent with sound case management.

Proposed § 17.13(a) would require that all protests be conducted under the FAA Dispute Resolution Process for Protests.

Proposed § 17.13(b) would encourage the potential protester to seek informal resolution with the Contracting Officer (CO) prior to filing a protest with the ODRA.

Proposed § 17.13(c) would allow a protest to be filed pursuant to § 17.15 if either informal resolution with the CO is not successful, or the time limits set forth in proposed § 17.17 are about to expire. Attempts at informal resolution with the CO will not extend the time limits in § 17.17.

Proposed § 17.13(d) would set forth the protest procedure that would be followed. The initial process includes a status conference being held by the ODRA, after which the parties will have five (5) working days to determine whether they can use ADR pursuant to Subpart D of this part, and if they are unable to do so, the parties will have to state why they cannot. If the parties can

use ADR, they are allowed five (5) working days in which to submit a signed ADR agreement to the ODRA. The parties will have twenty (20) working days within which to complete the ADR process. If the parties cannot agree to ADR and must resort to the Default Adjudicative Process, the Program Office will have ten (10) working days after the status conference to submit an initial response to the protest, after which the Default Adjudicative Process under Subpart E will commence. If the ADR process is unsuccessful, the ODRA will assign a DRO or Special Master for the Default Adjudicative Process under Subpart E of this part.

Proposed § 17.13(e) would allow the ODRA to modify any time constraints for pending protests.

Proposed § 17.13(f) would allow the ODRA to combine multiple protests concerning the same SIR or contract award for efficient case resolution.

Proposed § 17.13(g) would state the presumption against suspension of a procurement during the pendency of a protest. The section states that procurement will continue unless compelling reasons warrant suspension.

Section 17.15 Filing a Protest

Proposed § 17.15 would govern the timing and content of a protest. The protester is required to set forth all information that will allow an early assessment of the protest by the ODRA.

Proposed § 17.15(a) would state that only an interested party may file a protest, and would set forth the times within which a protest must be filed with the ODRA. Where a protest addresses an alleged impropriety in the SIR, the protest must be filed prior to bid opening or the time for initial offers. For protests other than those involving solicitation improprieties, the protester must file a protest within seven (7) business days of the time that the protester knew or should have known of the grounds for protest. Where a debriefing was offered, the protester must file within 5 business days of the date on which the debriefing was held.

Proposed § 17.15(b) would set forth the ODRA address for filing purposes, including the ODRA's telephone and facsimile numbers.

Proposed § 17.15(c) would set forth the information that must be included in a protest. Of special note are the following:

- The protester must identify a Protester Designee, who shall be the point of contact for the protest.
- The protester must state its case for timeliness and standing.
- The protester must state its need for a protective order.

Proposed § 17.15(d) would require the protester to set forth any compelling reasons that would support a decision by the FAA Administrator to suspend or delay the procurement. The protester is required to supply detailed information concerning the protester's position, and to clearly identify any adverse consequences that relate to the requested suspension or delay.

Proposed § 17.15(e) would require the protester to: (1) Serve a copy of the protest on the CO so that the protest will be received by the CO on the same day that it is received by the ODRA; and (2) certify as to that service, by a signed statement to the ODRA.

Proposed § 17.15(f) would require the CO to: (1) Provide the ODRA with the names, addresses, telephone numbers and facsimile numbers of the awardee and interested parties to a protest, and (2) notify these parties of the existence of the protest. This proposed section would require such interested parties to inform the ODRA within two (2) business days of the notification of their interest in participating in the protest.

Proposed § 17.15(g) would note that the Director of the ODRA has the discretion to designate those parties who may participate in a protest as intervenors.

Section 17.17 Initial Protest Procedures

Proposed § 17.17 would contain the initial protest procedures. These procedures over an initial period of ten business days would include assigning a DRO, holding a status conference, and determining whether the protest is to be resolved by use of ADR or the Default Adjudicative Process.

Proposed § 17.17(a) would provide that the ODRA will assign a DRO to a protest when one is filed.

Proposed § 17.17(b) would require the FAA to respond within two (2) business days to a protester's request made pursuant to § 17.15(d) that the procurement be suspended by the Administrator, and would allow the ODRA, in its discretion, to recommend such suspension.

Proposed § 17.17(c) would require the ODRA to hold a status conference with the parties as soon as practicable after the protest is filed, and establishes the matters to be addressed during the status conference. The subjects to be covered in a status conference would include: a review of procedures; exploration of any issues relating to summary dismissal of the protest or to suspension recommendations; establishing a protective order, if needed; exploring the possibility of using ADR; the conduct of early neutral evaluation, if appropriate; and other appropriate matters.

Proposed § 17.17(d) would require the parties to file a joint statement with the ODRA on the fifth business day following the status conference indicating: (1) That the parties will use ADR to resolve the protest; or (2) submit a written explanation of why ADR cannot be used and why the parties will have to resort to use of the Default Adjudicative Process.

Proposed § 17.17(e) would require the parties to submit their choice of an ADR neutral and ADR technique, together with an executed ADR agreement within five (5) business days of the status conference.

Proposed § 17.17(f) would require that, if the Default Adjudicative Process must be used, the Program Office will have ten business days from the status conference to file with the ODRA a Program Office response to the protest. The Program Office response shall consist of a statement of pertinent facts, and applicable legal or other defenses, and shall be accompanied by all documents deemed relevant to the Program Office actions, plus any affidavits or other forms of support for the Program Office position. A copy of the responses shall be furnished to the protester at the same time, and by the same means, it is filed with the ODRA. At that point, the protester would proceed under the Default Adjudicative Process, pursuant to § 17.37.

Proposed § 17.17(g) would allow the ODRA the discretion to extend time limitations for the process.

Section 17.19 Dismissal or Summary Decision of Protests

Proposed § 17.19 would set forth the procedures for dismissal of a protest or any portion of a protest, thereby promoting economy and efficiency in dispute resolution.

Proposed § 17.19(a) would state three bases for dismissal. Proposed § 17.19(a)(1) would allow dismissal for lack of standing or for lack of timeliness. Proposed § 17.19(a)(2) would allow dismissal for failure to state a claim upon which relief can be granted. Proposed § 17.19(a)(3) would allow for summary decision, where no material facts remain at issue and a protest, or portion thereof, can be decided as a matter of FAA policy as stated in the AMS, or as a matter of applicable law.

Proposed § 17.19(b) would provide that the ODRA will consider any material facts in dispute relating to the motion to dismiss or to a motion for

summary decision in a light most favorable to the non-moving party.

Proposed § 17.19(c) would allow the Director of the ODRA at any time, to recommend to the Administrator either dismissal or the issuance of a summary decision with respect to an entire protest, or for the Director of the ODRA, to dismiss or issue a summary decision of any portion of a protest.

Proposed § 17.19(d) would state that where an ODRA recommendation for dismissal or summary decision of an entire protest is adopted by the Administrator, or where the ODRA dismisses or issues a summary decision of an entire protest under a delegation of authority from the Administrator, the dismissal would be a final agency order. However, dismissal or summary decision of a count or portion of a protest is not a final agency order, unless and until the dismissal or decision is incorporated into a decision by the Administrator (or the ODRA, by delegation) regarding the entire protest.

Section 17.21 Protest Remedies

Proposed § 17.21 would list remedies that may be recommended by the ODRA. These remedies are consistent with remedies available to other agencies, with the addition of discretion to fashion a remedy under the AMS that is appropriate under the circumstances of a particular FAA procurement.

Proposed § 17.21(a) would list the remedies available, and notes that either a combination of the remedies, or a remedy appropriate to the situation and consistent with the AMS may be acceptable.

Proposed § 17.21(b) would set forth factors to be considered by the ODRA when considering a remedy.

Proposed § 17.21(c) would allow the award of attorney's fees to a qualified prevailing protester under the EAJA, 5 U.S.C. 504(a)(1). EAJA decisions or recommendations made under auspices of the ODRA would weigh whether (1) the Program Office decision was substantially justified or (2) special circumstances make an award unjust. The EAJA applies to final adjudicative FAA orders pursuant to 49 U.S.C. § 46102.

Subpart C—Contract Disputes

Section 17.23 Dispute Resolution Process for Contract Disputes

Proposed § 17.23 would describe the FAA Dispute Resolution Process for Contract Disputes. The dispute resolution process contemplates that many contract disputes can be solved by cooperative action between the contractor, the CO, and the project team.

The filing of a contract dispute under this section requires the contractor to define the nature of the problem, and to request a remedy. In view of the goal of informal resolution through the use of ADR, there is no need for a "final decision" by the CO. The process contemplates an attempt at informal resolution between the contractor and the CO, with assistance from the ODRA if requested, prior to any formal action. Once formal ODRA action is initiated, the emphasis will be upon the use of ADR techniques, unless the contract dispute cannot be resolved except through the Default Adjudicative Process.

Proposed § 17.23(a) would require that all contract disputes pertaining to contracts entered into pursuant to the AMS be resolved under the FAA Dispute Resolution Process.

Proposed § 17.23(b) would require the contractor to file a contract dispute with the ODRA and with the CO.

Proposed § 17.23(c) contemplates that the contractor will seek informal resolution with the CO. The CO has full authority and discretion, with the aid of FAA legal counsel, to settle the contract dispute. The parties will have up to thirty (30) business days in which to reach an informal resolution of the dispute, and may seek the informal assistance of the ODRA during that time. If no informal resolution is foreseeable within the thirty (30) business day period, the parties must file a joint statement regarding whether or not ADR will be employed, in accordance with § 17.27.

Proposed § 17.23(d) would allow the parties to make one joint request to the ODRA for an extension of time beyond the original thirty (30) business day period, to file the joint statement under § 17.27.

Proposed § 17.23(e) would provide that a status conference be scheduled within ten (10) business days after receipt by the ODRA of the joint statement required by § 17.27, in order to establish the procedures that will be used to resolve the contract dispute.

Proposed § 17.23(f) would require continued performance in accordance with the provisions of the contract, pending resolution of a contract dispute arising under or related to that contract.

Section 17.25 Filing a Contract Dispute

Proposed § 17.25 would set forth the requirements for filing a contract dispute with the ODRA. A contract dispute is filed with the ODRA prior to the commencement of the thirty (30) business day informal resolution period.

Proposed § 17.25(a) would require that the contract dispute be in writing and contain the following information when it is filed:

- The contractor's name, address, telephone, and fax number;
- The contract number and the name of the Contracting Officer;
- A detailed statement of the legal and factual basis of the contract dispute, or of each element or count of the contract dispute, including copies of relevant documents;
- All information establishing that the contract dispute was timely filed; a request for a specific remedy or the specification of a monetary request in a sum certain; and the signature of a duly authorized representative.

Proposed § 17.25(b) would state the ODRA address where a contract dispute is to be filed.

Proposed § 17.25(c) would require a contractor with a contract dispute against the FAA to file that contract dispute with the ODRA within six months of the date that the contract dispute accrues. A contract dispute by the FAA against a contractor (other than those alleging warranty issues, fraud or latent defects) likewise must be filed within six months of the accrual of the contract dispute. If a contract clause provides for different time limitations, such limitations will apply. With limited exceptions, neither party will be permitted to file a contract dispute with the ODRA after the contractor's acceptance of final contract payment.

Proposed § 17.25(d) would state that a party who files a contract dispute with the ODRA shall serve a copy of the contract dispute with the other party.

Section 17.27 Submission of Joint Statement

Proposed § 17.27(a) would require parties to submit a joint statement to the ODRA by no later than the end of the thirty (30) business day informal resolution period of proposed § 17.23, where the dispute has not been resolved during that period.

Proposed § 17.27(b) would set forth the information required for that joint statement, namely, either a request for ADR—together with an executed ADR agreement, pursuant to § 17.33(d)—or, in the event ADR will not be utilized, a written explanation as to why ADR will not be utilized and why the parties must resort to the Default Adjudicative Process.

Proposed § 17.27(c) would state the ODRA address to which the statement of the case is to be filed, including the ODRA telephone and facsimile numbers.

Section 17.29 Dismissal of Contract Disputes

Proposed § 17.29 would address the procedures to be followed for dismissal of a contract dispute, or individual portions of a contract dispute. Dismissal is appropriate where the contract dispute is not filed within time, or is filed by a subcontractor, or fails to state a claim upon which relief can be granted. The dismissal of a contract dispute, or the striking of an individual portion of a contract dispute, is allowed in the interest of economy and efficiency.

Proposed § 17.29(a) would allow dismissal of a contract dispute, or the striking of an individual portion of a contract dispute: (1) On timeliness grounds; (2) if filed by a subcontractor; (3) where there is a failure to state a claim upon which relief can be granted; and (4) if the dispute involves a matter not subject to the jurisdiction of the ODRA.

Proposed § 17.29(b) would provide that the ODRA, when weighing a motion to dismiss or to strike, should consider disputed facts in a light most favorable to the party against whom the motion to dismiss or strike is made.

Proposed § 17.29(c) would allow the ODRA to dismiss or strike any portion of a contract dispute upon its own initiative at any time. This section also provides for the dismissal of an entire contract dispute, either by the Administrator, upon recommendation by the ODRA, or directly by the ODRA, when such authority is delegated by the Administrator.

Proposed § 17.29(d) would state that an order dismissing an entire contract dispute, issued either by the Administrator, or by the ODRA, upon delegation of authority from the Administrator, will constitute a final agency order. It further provides that an ODRA order dismissing or striking an individual count or portion of a dispute would not constitute a final agency order.

Subpart D—Alternative Dispute Resolution

Section 17.31 Use of Alternate Dispute Resolution

Proposed § 17.31(a), (b), and (c) would set forth the basic requirements for both the ODRA and the parties respecting the use of ADR. Pursuant to the Alternative Dispute Resolution Act of 1996, Pub. L. 104–320 and Department of Transportation and FAA policies, the ODRA will be required to utilize ADR to the maximum extent practicable, that the ODRA encourage the parties to utilize ADR to resolve protests and contract disputes as their primary means of dispute resolution. The section clarifies that the Default Adjudicative Process is to be used only when the parties cannot achieve agreement on the use of ADR or when the ODRA concludes that ADR will not provide an expeditious means of dispute resolution in a particular case.

Section 17.33 Election of Alternative Dispute Resolution Process

Proposed § 17.33 would set forth procedures for initiating the use of ADR.

Proposed § 17.33(a) would state that the ODRA makes its personnel available to serve as Neutrals in ADR proceedings and attempts to make qualified non-FAA personnel available, if requested by the parties, through neutral sharing arrangements. The section also permits the parties to select a mutually acceptable Compensated Neutral at their shared expense.

Proposed § 17.33(b) would require the parties to a protest who use ADR to submit an executed ADR agreement containing the information required in paragraph (d) of this section to the ODRA within five (5) business days from the time the ODRA holds the status conference pursuant to § 17.17(c).

Proposed § 17.33(c) would require the parties to a contract dispute who use ADR to submit to the ODRA an executed ADR agreement containing the information required in paragraph (d) of this section, as part of the joint statement specified under § 17.27.

Proposed § 17.33(d) would require the parties who use an ADR process, to prepare and submit to the ODRA an executed ADR agreement detailing: the type of ADR they wish to use; the manner that they will use ADR; the Neutral or Compensated Neutral to be used; and sharing equally the cost of any Compensated Neutral they choose.

Proposed § 17.33(e) would permit the use of various non-binding ADR techniques in combination with each other, provided that the techniques are agreed upon and specified in the ADR agreement; and would allow the parties to consider the use of any ADR technique that is fair and reasonable and designed to achieve a prompt resolution of the matters in dispute.

Proposed § 17.33(f) would allow binding arbitration only on a case-by-case basis, subject to the provisions of 5 U.S.C. § 575 (a), (b) and (c), and applicable law or where the Administrator's non-concur with the arbitrator's decision is preserved by agreement.

Proposed § 17.33(g) would provide that the ADR process for protests will be completed within twenty (20) business days from the filing of an ADR agreement with the ODRA, unless the parties obtain an extension of time from the ODRA.

Proposed § 17.33(h) would provide that the ADR process for contract disputes will be completed within forty (40) business days from the filing with the ODRA of an executed agreement with the ODRA, unless the parties obtain an extension of time from the ODRA.

Proposed § 17.33(i) would require the parties to submit to the ODRA an agreed-upon protective order, if one is necessary, in accordance with the requirements of § 17.9.

Section 17.35 Selection of Neutrals for the Administrative Dispute Resolution Process

Proposed § 17.35 would address the selection of Neutrals for the ADR process, whether for protests or for contract disputes.

Proposed § 17.35(a) would allow the parties to select a Compensated Neutral acceptable to both, or to request the ODRA for the services of a DRO, or a Neutral who is not an employee of the FAA.

Proposed § 17.35(b) would allow the parties who select a Compensated Neutral, acceptable to both, to request the services of a DRO to advise on matters of ODRA procedure, if the Compensated Neutral is not familiar with ODRA procedural matters.

Proposed § 17.35(c) would allow the ODRA to assign a DRO to be the Neutral in ADR for appropriate protests or contract disputes, unless the parties agree otherwise.

Subpart E—Default Adjudicative Process

Section 17.37 Default Adjudicative Procedures for Protests

Proposed § 17.37 would address the Default Adjudicative Process for protests, lasting thirty (30) business days. The Default Adjudicative Process is available if there is no resolution at the CO level, the parties cannot agree to ADR, or are unsuccessful in resolving the protest fully. Under the Default Adjudicative Process, the parties present their positions with supporting evidence. The question to be resolved is whether the protested FAA decision had a rational basis, or was not arbitrary, capricious or an abuse of discretion under the AMS.

Proposed § 17.37(a) would state that the process begins when either the initial Program Office response to the protest is submitted pursuant to § 17.17(f) ten (10) business days

following the status conference held pursuant to § 17.17(d), or the parties notify the ODRA that the ADR process has failed, or that the twenty (20) business days allotted for resolution through ADR have expired or will expire with no reasonable probability of their achieving a resolution.

Proposed § 17.37(b) would provide that the ODRA may select either a DRO or a qualified person not employed by the FAA to serve as a Special Master to conduct fact-finding proceedings and to provide findings of fact and recommendations concerning some or all of the matters in controversy.

Proposed § 17.37(c) would allow the DRO or Special Master to prepare any necessary procedural orders for the proceedings and would allow the DRO or Special Master to require additional submissions, as appropriate.

Proposed § 17.37(d) would allow the DRO or Special Master to convene the parties or their representatives as necessary to conduct the Default Adjudicative Process.

Proposed § 17.37(e) would allow the DRO or Special Master the discretion to decide the protest on the record if the written material submitted by the parties is sufficient for that purpose.

Proposed § 17.37(f) would allow the DRO or Special Master the discretion to manage the discovery process, including limiting its length and availability, to assure that the discovery schedule is consistent with the time limitations established in this part.

Proposed § 17.37(g) would allow the DRO or Special Master the discretion to permit or request oral presentations, and to limit them to specific witnesses or issues.

Proposed § 17.37(h) would allow the ODRA to review the status of the Default Adjudicative Process with the DRO or Special Master during the pendency of the protest.

Proposed § 17.37(i) would require the DRO or Special Master to submit the findings of fact and recommendations to the ODRA within thirty (30) business days of the commencement of the Default Adjudicative Process, unless a shorter or longer period of time is permitted at the discretion of the ODRA. The findings of fact and recommendations shall contain findings of fact, application of the principles of the AMS, or any law or authority applicable to the findings of fact, a recommendation for a final order, and, if appropriate, suggestions for future agency action.

Proposed § 17.37(j) would instruct the DRO or Special Master to base the findings of fact and recommendations specifically upon whether the FAA actions complained of had a rational basis, or whether or not the FAA decision was arbitrary, capricious or an abuse of discretion, and to assure that any findings of fact underlying a recommendation be supported by substantial evidence.

Proposed § 17.37(k) would allow the DRO or Special Master to exercise broad discretion to recommend a remedy for a successful protest that is consistent with § 17.21.

Proposed § 17.37(l) would require the Special Master or DRO to submit the findings of fact and recommendations only to the Director of the ODRA.

Proposed § 17.37(m) would state that the Administrator, or the Administrator's delegee, issues the final agency decision and order of the Administrator.

Section 17.39 Default Adjudicative Process for Contract Disputes

Proposed § 17.39 would address the Default Adjudicative Process for contract disputes. Under this Default Adjudicative Process, the parties present their respective positions on the issues underlying the contract dispute, and present evidence supporting those positions.

Proposed § 17.39(a) would call for the Default Adjudicative Process to commence on the latter of the parties' submission of a joint statement under § 17.27, indicating that the ADR will not be utilized, or their submission of joint notification regarding the inability of ADR to achieve a resolution of the contract dispute.

Proposed § 17.39(b) would require the Program Office to prepare and file a Dispute File, consisting of relevant documents chronologically arranged and indexed. The contractor would be permitted to supplement such a Dispute File.

Proposed § 17.39(c) would provide that the Director of the ODRA assign a DRO or Special Master to conduct fact-finding and provide findings and recommendations on some or all of the issues in the dispute.

Proposed § 17.39(d) would require the DRO or Special Master to convene a Status Conference within ten (10) business days of commencement of the Default Adjudicative Process and would permit the DRO or Special Master to issue such orders and directives as are necessary to carry out the Default Adjudicative Process.

Proposed § 17.39 (e) would set forth the basic subject matter of the Status Conference. First, it directs that the issues be analyzed by the DRO or Special Master and the parties, in order to: (1) Prepare a discovery plan sufficient to prepare any remaining issues for resolution; (2) review the need for a protective order, and if one is needed, issue a protective order, agreed upon by the parties; (3) determine whether any issue can be stricken; and (4) prepare and issue a procedural order for the proceedings.

Proposed § 17.39(f) would require that the parties prepare final submissions to the DRO or Special Master in advance of the decision. The submissions are to include: a joint statement of the issues; a joint statement of undisputed facts related to each issue; separate statements of disputed facts related to each issue, with appropriate citations to the record; and separate legal analyses in support of each party's respective position on the disputed issues.

Proposed § 17.39(g) would require the parties to provide copies of their final submissions to one another, so that such copies are received on the same date they are received by the ODRA.

Proposed § 17.39(h) would allow the DRO or Special Master either to decide the contract dispute on the record, or to allow the parties to make further presentations in person and in writing.

Proposed § 17.39(i) would require the DRO or Special Master to prepare and submit findings of fact and recommendations to the ODRA within thirty (30) business days of the final submissions of the parties, unless that time is extended by the ODRA for good cause. The findings of fact and recommendations shall contain findings of fact, application of the principles of the AMS and other law or authority applicable to the findings of fact, a recommendation for a final order, and, if appropriate, suggestions for future agency action.

Proposed § 17.39(j) would instruct the DRO or Special Master to review the disputed issue or issues in the context of the contract, applicable law and the AMS, and to support any findings of fact with substantial evidence.

Proposed § 17.39(k) would require the Special Master or DRO to submit a findings of fact and recommendations only to the Director of the ODRA.

Proposed § 17.39(l) would state that the Administrator, or the Administrator's delegee, would issue the final FAA order concerning the contract dispute.

Proposed § 17.39(m) would state that attorneys' fees of a prevailing contractor are allowable to the extent permitted by the EAJA, 5 U.S.C. § 504(a)(1); and that if required by contract or applicable law, the FAA will pay interest on the amount found due the contractor, if any.

Subpart F—Finality and Review

Section 17.41 Final Orders

Proposed § 17.41 would state that a final agency order shall be issued only after the protester or contractor has exhausted all available administrative remedies under this FAA dispute resolution process. Exhaustion of administrative remedies occurs when the Administrator, or a person who has been delegated by the Administrator to act in circumstances where such delegation applies, has issued a final order accepting or modifying a recommendation from the ODRA.

Section 17.43 Judicial Review

Proposed § 17.43(a) would direct the parties to seek review of a final FAA order in the manner allowed by law.

Proposed § 17.43(b) would require that a petition for review also be filed with the ODRA and the FAA attorney involved, at the time the petition for review is filed.

Paperwork Reduction Act

This proposal contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The title, description, respondent description and annual burden are shown below.

Title: Procedures for Protests and Contract Disputes—Equal Access to Justice Act (EAJA) Regulations.

Description: The FAA proposes to publish procedural requirements for the conduct of protests and contract disputes before the Office of Dispute Resolution for Acquisition. These procedures are designed to reduce the paperwork requirement ordinarily associated with such actions in other forums. The emphasis in the procedures is the resolution of a case as soon as is practicable, but also to provide for resolution through adjudication should the resolution require such.

Description of Respondents: Businesses or other organizations or persons who do business with the FAA.

This proposal generates a paperwork requirement upon only those respondents who pursue protests or contract disputes. The actual paperwork burden and cost for an individual case would vary with the complexity of the subject matter, and whether the protester or contractor and the FAA are able to reach an early resolution of the issues in the case. The following estimate is based upon cases filed with the ODRA in the first year, but assumes a higher annual caseload of 100 protests or contract disputes. In this analysis, the annual paperwork burden for all respondents would be approximately 3385 hours. This figure is derived from estimates based on cases processed in the first year of ODRA operation. At 2 hours per pleading, the total pleading burden for all cases is 200 hours (100 × 2). Fifty percent of all cases filed with the ODRA are settled or withdrawn after the initial pleadings are made. That means that for 50 of the cases filed with ODRA, there is no additional paperwork burden (50 × 0).

Only Of the 50 remaining cases requiring additional paperwork, 34 cases filed with ODRA go through the full adjudicative procedure. Of those cases, only 90% (31/34) can be described as average. One such case, based on an EAJA submission, involved 55 hours of paperwork burden. Using this figure yields a total of 1705 hour burden for the average cases (31 × 55). This estimate further assumes that of the 34 cases that go through full adjudicative procedure, 3 of them will be complex and contentious, requiring an above average number of hours. For purposes of this analysis, the FAA will use the estimate of 200 hours per complex/contentious case. Accordingly, for the above average cases, the total paperwork burden is 600 hours (3 × 200). There still remain the 16 cases that are settled/withdrawn after the pleadings are filed but that require some additional paperwork. Assuming that each of these cases incur an additional burden of 55 hours to achieve settlement/withdrawal, the total burden for these cases increases by 880 hours (16 × 55). The sum of all the hours described above is 3385 and is depicted graphically in the table below.

Description of effort	Number of cases	Hours incurred	Total hourly burden
Filing of Pleadings	100	2	200
Cases Settled/Withdrawn After Initial Pleadings Filed	50	0	0
Cases Requiring Average Number of Hours	31	55	1705
Cases Requiring Above Average Number of Hours	3	200	600
Cases Requiring Below Average Number of Hours	16	55	880
Total			3,385

It is important to note that these numbers are merely estimates and the hourly cost for preparation of pleadings and responses to procedural requirements varies upon whether a respondent hires a law firm, or pursues the matter with in-house counsel, or chooses to proceed pro se, without the services of a lawyer.

Individuals and organizations may submit comments on the information collection requirement by October 26, 1998, and should direct them to the address listed in the **ADDRESSES** section of this document. Comments also should be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 10202, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer for FAA.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The burden associated with this proposal has been submitted to OMB for review. The FAA will publish a notice in the **Federal Register** notifying the public of the approval numbers and expiration date.

Regulatory Evaluation Summary

Four principal requirements pertain to the economic impacts of changes to the Federal Regulations. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations after consideration of the expected benefits to society and the expected costs. The order also requires federal agencies to assess whether a proposed rule is considered a "significant regulatory action." Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Finally, Public Law 104–4 requires federal agencies to assess the impact of any federal mandates on state,

local, tribal governments, and the private sector.

In conducting these analyses, the FAA has determined that this rule would generate cost-savings that would exceed any costs, and is not "significant" as defined under section 3(f) of Executive Order 12866 and Department of Transportation's (DOT) policies and procedures (44 FR 11034, February 26, 1979). In addition, under the Regulatory Flexibility Determination, the FAA certifies that this proposal would not have a significant impact on a substantial number of small entities. Furthermore, this proposal would not impose restraints on international trade. Finally, the FAA has determined that the proposal would not impose a federal mandate on state, local, or tribal governments, or the private sector of $100 million per year. These analyses, available in the docket, are summarized below.

Executive Order 12866 and DOT's Policies and Procedures

Under Executive Order 12866, each federal agency shall assess both the costs and the benefits of the proposed regulations while recognizing that some costs and benefits are difficult to quantify. A proposed rule is promulgated only upon a reasoned determination that the benefits of the proposed rule justify its costs.

In this proposed rule, the establishment of the Office of Dispute Resolution for Acquisition (ODRA) under the FAA's new Acquisition Management System would provide a cost savings to the private sector (protesters and contractors). To resolve protests and contract disputes with the FAA, offerors and contractors would realize a cost savings of $1,000 to $1,000,000 per case, and the FAA would realize an average cost savings of $2,200 per protest case and $4,200 per contract dispute. Costs for this proposed rule are estimated to be about $1,000 or less per case for the private sector to abide by the procedures of the ODRA, and no additional costs would be attributed to the FAA for implementing such procedures. Therefore the FAA concludes that not only do the benefits justify the costs, but that they actually exceed the costs.

The proposed rule would also not be considered a significant regulatory action because (1) it does not have an annual effect of $100 million or more or adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) it does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) it does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; and (4) it does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or principles set forth in the Executive Order. Because the proposed rule was not considered significant under these criteria, it was not reviewed by the Office of Management and Budget (OMB) for consistency with applicable law, the President's priorities, and the principles set forth in this Executive Order nor was OMB involved in deconflicting this proposed rule with ones from other agencies.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statues, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that and to explain the rationale for their actions, the Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities (protesters and contractors). Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605 (b), the FAA certifies that this rule would not have a significant economic impact on a substantial number of small entities for the following reason: The proposed rule would provide an estimated cost savings of $1,000 to $1 million per case in resolving its differences with the FAA, while requiring about $1,000 or less per case per entity to resolve the issue. For small entities, the FAA estimates that cost savings per case would be closer to $1,000 than $1 million and concludes there would be no significant economic impact on small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Assessment

The FAA has determined that the proposed rule would neither affect the sale of aviation products and services in the United States nor the sale of U.S. products and services in foreign countries.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year, therefore the requirements of the act do not apply.

International Compatibility

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because there is not a compatible rule under ICAO standards.

Federalism Implications

The regulations proposed herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

14 CFR Part 14

Claims, Equal access to justice, Lawyers, Reporting and recordkeeping requirements.

14 CFR Part 17

Administrative practice and procedure, Alternative Dispute Resolution (ADR), Authority delegations (Government agencies), Government contracts, Government procurement.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14 of the Code of Federal Regulations as follows:

PART 14—RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT OF 1980

1. The authority citation for part 14 is revised to read as follows:

Authority: 5 U.S.C. 504; 49 U.S.C. 106(f), 40113, 46104 and 47122.

2. Section 14.02 is amended by revising paragraph (a) to read as follows:

§ 14.02 Proceedings covered.

(a) The Act applies to certain adversary adjudications conducted by the FAA under 49 CFR part 17 and the Acquisition Management System (AMS). These are adjudications under 5 U.S.C. 554, in which the position of the FAA is represented by an attorney or other representative who enters an appearance and participates in the proceeding. This subpart applies to proceedings under 49 U.S.C. 46301, 46302, and 46303 and to the Default Adjudicative Process under 14 CFR part 17 and the AMS.

* * * * *

3. Section 14.03 is amended by revising paragraphs (a) and (f) to read as follows:

§ 14.03 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 504(b)(1)(B) and 5 U.S.C. 551(3). The applicant must show that it meets all conditions or eligibility set out in this subpart.

* * * * *

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the administrative law judge (ALJ) or adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge or adjudicative officer may determine that financial relationships of the applicant, other than those described in this paragraph, constitute special circumstances that would make an award unjust.

* * * * *

4. Section 14.05 is amended by revising paragraphs (b), (c), and (e) to read as follows:

§ 14.05 Allowance fees and expenses.

* * * * *

(b) No award for the fee of an attorney or agent under this part may exceed $125 per hour. No award to compensate an expert witness may exceed the highest rate at which the agency pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the administrative law judge or adjudicative officer shall consider the following:

(1) If the attorney, agent, or witness is in private practice, his or her customary fee for similar services, or if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

* * * * *

(e) Fees may be awarded only for work performed after the issuance of a complaint, or the initiation of the adjudicative phase of a protest or contract dispute under 14 CFR part 17 and the AMS.

5. Section 14.11 is amended by revising paragraph (c) to read as follows:

§ 14.11 Net worth exhibit.

* * * * *

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of the net worth exhibit, or any part of it, may submit that portion of the exhibit directly to the administrative law judge or adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information.

(1) The motion shall describe the information sought to be withheld and explain, in detail, why it should be exempt under applicable law or regulation, why public disclosure would adversely affect the applicant, and why disclosure is not required in the public interest.

(2) The net worth exhibit shall be served on the FAA counsel, but need not be served on any other party to the proceeding.

(3) If the administrative law judge or adjudicative officer finds that the net worth exhibit, or any part of it, should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the FAA's established procedures.

6. Section 14.20 is amended by revising paragraphs (a) and (c) to read as follows:

§ 14.20 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, but in no case later than 30 days after the FAA Decisionmaker's final disposition of the proceeding, or

service of the order of the Administrator in a proceeding under the AMS.

* * * * *

(c) For purposes of this part, final disposition means the later of:

(1) Under 14 CFR part 17 and the AMS, the date on which the order of the Administrator is served;

(2) The date on which an unappealed initial decision becomes administratively final;

(3) Issuance of an order disposing of any petitions for reconsideration of the FAA Decisionmaker's final order in the proceeding;

(4) If no petition for reconsideration is filed, the last date on which such a petition could have been filed; or

(5) Issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

7. Section 14.21 is revised to read as follows:

§ 14.21 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 14.11(b) for confidential financial information. Where the proceeding was held under 14 CFR part 17 and the AMS, the application shall be filed with the FAA's attorney and with the Office of Dispute Resolution for Acquisition (ODRA).

8. Section 14.22 is amended by revising paragraph (b) to read as follows:

§ 14.22 Answer to application.

* * * * *

(b) If the FAA's counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the administrative law judge or adjudicative officer upon request by the FAA's counsel and the applicant.

* * * * *

9. Section 14.24 is revised to read as follows:

§ 14.24 Comments by other parties.

Any party to a proceeding other than the applicant and the FAA's counsel may file comments on an application within 30 days after it is served, or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge or adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

10. Section 14.26 is amended by revising paragraph (a) to read as follows:

§ 14.26 Further proceedings.

(a) Ordinarily the determination of an award will be made on the basis of the written record; however, on request of either the applicant or agency counsel, or on his or her own initiative, the administrative law judge or adjudicative officer assigned to the matter may order further proceedings, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application and shall be conducted as promptly as possible.

* * * * *

11. Section 14.27 is revised to read as follows:

§ 14.27 Decision.

(a) The administrative law judge shall issue an initial decision on the application within 60 days after completion of proceedings on the application.

(b) An adjudicative officer in a proceeding under 14 CFR part 17 and the AMS shall prepare a findings and recommendations for the ODRA.

(c) A decision under paragraph (a) or (b) of this section shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the FAA's position was substantially justified, or whether special circumstances make an award unjust.

12. Section 14.28 is revised to read as follows:

§ 14.28 Review by FAA decisionmaker.

(a) In proceedings other than those under 14 CFR part 17 and the AMS, either the applicant or the FAA counsel may seek review of the initial decision on the fee application. Additionally, the FAA Decisionmaker may decide to review the decision on his/her own initiative. If neither the applicant nor the FAA's counsel seeks review within 30 days after the decision is issued, it shall become final. Whether to review a decision is a matter within the discretion of the FAA Decisionmaker. If review is taken, the FAA Decisionmaker will issue a final decision on the application or remand the application to the administrative law judge who issued the initial fee award determination for further proceedings.

(b) In proceedings under 14 CFR part 17 and the AMS, the adjudicative officer shall prepare a findings and recommendations for the ODRA with recommendations as to whether or not an award should be made, the amount of the award, and the reasons therefor. The ODRA shall submit a recommended order to the Administrator after the completion of all submissions related to the EAJA application. Upon the Administrator's action, the order shall become final, and may be reviewed under 49 U.S.C. 46110.

13. A new part 17 is added to 14 CFR chapter I, subchapter B, to read as follows:

PART 17—PROCEDURES FOR PROTESTS AND CONTRACT DISPUTES

Subpart A—General

Sec.

Subpart B—Protests

Subpart C—Contract Disputes

Subpart D—Alternative Dispute Resolution

Subpart E—Default Adjudicative Process

Subpart F—Finality and Review

Appendix A To Part 17—Alternative Dispute Resolution (ADR)

Authority: 5 U.S.C. 570–581; 49 U.S.C. 106(f)(2), 40110, 40111, 40112, 46102, 46014, 46105, 46109, and 46110.

Subpart A—General

§ 17.1 Applicability.

This part applies to all protests or contract disputes against the FAA.

§ 17.3 Definitions.

(a) *Accrual* means to come into existence as a legally enforceable claim.

(b) *Accrual of a contract dispute* occurs on the date when all events underlying the dispute were known or should have been known.

(c) *Acquisition Management System* (AMS) establishes the policies, guiding principles, and internal procedures for the FAA's acquisition system.

(d) *Administrator* means the Administrator of the Federal Aviation Administration.

(e) *Alternative Dispute Resolution* (ADR) is the primary means of dispute resolution that would be employed by the FAA's Office of Dispute Resolution for Acquisition (ODRA). See Appendix A of this part.

(f) *Compensated Neutral* refers to an impartial third party chosen by the parties to act as a facilitator, mediator, or arbitrator functioning to resolve the protest or contract dispute under the auspices of the ODRA. The parties pay equally for the services of a Compensated Neutral. A Dispute Resolution officer (DRO) or Neutral cannot be a Compensated Neutral.

(g) *Contract Dispute*, as used in this part, means a written request to the ODRA seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under, relating to or involving an alleged breach of contract, entered into pursuant to the AMS. A contract dispute does not require, as a prerequisite, the issuance of a Contracting Officer final decision.

(h) *Default Adjudicative Process* is an adjudicative process used to resolve protests or contract disputes where the parties cannot achieve resolution through informal communication or the use of ADR. The Default Adjudicative Process is conducted by a DRO or Special Master selected by the ODRA to serve as "adjudicative officers," as that term is used in 14 CFR part 14.

(i) *Discovery* in the Default Adjudicative Process is the procedure where opposing parties in a protest or contract dispute may, when allowed, obtain testimony from, or documents and information held by, other parties or non-parties.

(j) *Dispute Resolution Officer* (DRO) is a licensed attorney reporting to the ODRA. The term DRO can include the Director of the ODRA, ODRA staff attorneys or other FAA attorneys assigned to the ODRA.

(k) *An interested party* is designated as such at the discretion of the ODRA, and in the context of a bid protest is one who: Prior to the closing date for responding to a Screening Information Request (SIR), is an actual or prospective participant in the procurement, excluding prospective subcontractors; or after the closing date for responding to a SIR, is an actual participant who would be next in line for award under the SIR's selection criteria if the protest is successful, or is an actual participant who is not next in line for award under the SIR's selection criteria but who alleges specific improper actions or inactions by the Program Office that caused the party to be other than next in line for award. Proposed subcontractors are not eligible to protest. The awardee of the contract may be allowed to participate in the protest as an intervenor.

(l) An *intervenor* is an interested party other than the protester whose participation in a protest is allowed by the ODRA.

(m) *Neutral* refers to an impartial third party in the ADR process chosen by the ODRA to act as a facilitator, mediator, arbitrator, or otherwise to resolve the protest or contract dispute. A Neutral can be a DRO or a person not an employee of the FAA who serves on behalf of the ODRA.

(n) The *Office of Dispute Resolution for Acquisition* (ODRA), under the direction of the Director, acts on behalf of the Administrator to manage the FAA Dispute Resolution Process, and to recommend action to the Administrator on matters concerning protests or contract disputes.

(o) *Parties* include a protester or a contractor, the FAA, and any intervenor.

(p) *Program Office*, as used in these rules, refers to the FAA organization responsible for the procurement activity and includes the Contracting Officer (CO) and assigned FAA legal counsel, when that FAA organization represents the FAA as a party to a protest or contract dispute before the ODRA.

(q) *Screening Information Request* (SIR) means a request by the FAA for information concerning an approach to meeting a requirement established by the FAA.

(r) A *Special Master* is a legal professional, usually with extensive adjudicative experience, who has been assigned by the ODRA to act as its finder of fact, and to make findings and recommendations based upon AMS policy and applicable law and authorities in the Default Adjudicative Process.

§ 17.5 Delegation of authority.

(a) The authority of the Administrator to conduct dispute resolution proceedings concerning acquisition matters, is delegated to the Director of the Office of Dispute Resolution for Acquisition.

(b) The Director of the Office of Dispute Resolution for Acquisition may redelegate to Special Masters and DROs such delegated authority in paragraph (a) of this section as is deemed necessary by the Director for efficient resolution of an assigned protest or contract dispute.

§ 17.7 Filing and computation of time.

(a) Filing of a protest or contract dispute may be accomplished by mail, overnight delivery, hand delivery, or by facsimile. A protest or contract dispute is considered to be filed on the date it is received by the ODRA during normal business hours. The ODRA's normal business hours are from 8:30 a.m. to 5:00 p.m. EST or EDT, whichever is in use. A protest or contract dispute received via mail, after the time period prescribed for filing, shall not be considered timely filed even though it may be postmarked within the time period prescribed for filing.

(b) Submissions to the ODRA after the initial filing of the protest or contract dispute may be accomplished by any means available in paragraph (a) of this section.

(c) The time limits stated in this part are calculated in business days, which exclude weekends and Federal holidays. In computing time, the day of the event beginning a period of time shall not be included. If the last day of a period falls on a weekend or a Federal holiday, the first business day following the weekend or holiday shall be considered the last day of the period.

(d) A petition for review shall be filed pursuant to 49 U.S.C. 46110, and a copy of the petition shall be served upon the ODRA and the Program Office attorney of record on the day the petition is filed with the court.

§ 17.9 Protective orders.

(a) The ODRA may issue protective orders addressing the treatment of protected information, either at the request of a party or upon its own initiative. Such information may include proprietary, confidential, or source-selection-sensitive material, or

other information the release of which could result in a competitive advantage to one or more firms.

(b) The terms of protective orders can be negotiated by the parties, subject to the approval of the ODRA. The protective order shall establish procedures for application for access to protected information, identification and safeguarding of that information, and submission of redacted copies of documents omitting protected information.

(c) After a protective order has been issued, counsel or consultants retained by counsel appearing on behalf of a party may apply for access to the material under the order by submitting an application to the ODRA, with copies furnished simultaneously to all parties. The application shall establish that the applicant is not involved in competitive decisionmaking for any firm that could gain a competitive advantage from access to the protected information and that the applicant will diligently protect any protected information received from inadvertent disclosure. Objections to an applicant's admission shall be raised within two (2) days of the application, although the ODRA may consider objections raised after that time for good cause.

(d) Any violation of the terms of a protective order may result in the imposition of sanctions or the taking of the actions as the ODRA deems appropriate.

(e) The parties are permitted to agree upon what material is to be covered by a protective order, subject to approval by the ODRA.

Subpart B—Protests

§ 17.11 Matters not subject to protest.

The following matters may not be protested:

(a) FAA purchases from or through federal, state, local, and tribal governments and public authorities;

(b) Grants;

(c) Cooperative agreements;

(d) Other transactions which do not fall into the category of procurement contracts subject to the AMS.

§ 17.13 Dispute resolution process for protests.

(a) Protests concerning FAA SIRs or contract awards shall be resolved pursuant to this part.

(b) The offeror initially should attempt to resolve any issues concerning potential protests with the CO. The CO, in coordination with FAA legal counsel, will make reasonable efforts to answer questions promptly and completely, and, where possible, to resolve concerns or controversies.

(c) Offerors or prospective offerors shall file a protest with the ODRA in accordance with § 17.15. The time limitations set forth in § 17.17 will not be extended by attempts to resolve a potential protest with the CO.

(d) A status conference may be called by the ODRA after the protest is filed to attempt resolution of the protest through a combination of informal communication and early neutral evaluation. If a conference is called, the parties will have five (5) business days after the status conference to inform the ODRA whether the parties agree to use ADR pursuant to Subpart D of this part; or to state why they cannot use ADR and must resort to the Default Adjudicative Process, pursuant to Subpart E of this part.

(1) Should the parties decide to utilize ADR, they will have five (5) business days after the status conference within which to agree upon the use of an ODRA-approved Neutral or a Compensated Neutral, in accordance with § 17.33(c), as well as upon the ADR technique to be employed. Within those five (5) business days, the parties are required to execute and file with the ODRA a written ADR agreement, pursuant to § 17.33(h). The parties will have up to twenty (20) business days to complete the ADR process.

(2) If the parties do not agree to use ADR, the Program Office will have ten (10) business days after the status conference within which to submit a Program Office response to the protest, after which the protest will proceed under the Default Adjudicative Process. If the ADR process is undertaken, but subsequently proves to be unsuccessful, a DRO or Special Master will be assigned to oversee the Default Adjudicative Process, pursuant to Subpart E of this part.

(e) The ODRA retains the discretion to modify any time constraints for pending protests.

(f) Multiple protests concerning the same SIR, solicitation, or contract award may be consolidated at the discretion of the ODRA, and assigned to a single DRO.

(g) Procurement activities, and, where applicable, contractor performance pending resolution of a protest shall continue during the pendency of a protest, unless there is a compelling reason to suspend or delay all or part of the procurement activities. Pursuant to §§ 17.15(d) and 17.17(b), the ODRA may recommend suspension of contract performance for a compelling reason. A decision to suspend or delay procurement activities or contractor performance would be made in writing by the FAA Administrator or the Administrator's delegee for that purpose.

§ 17.15 Filing a protest.

(a) Only an interested party may file a protest, and shall initiate a protest by filing a written protest with the ODRA within the times set forth below, or the protest shall be dismissed as untimely:

(1) Protests based upon alleged improprieties in a solicitation or a SIR that are apparent prior to bid opening or the time set for receipt of initial proposals shall be filed prior to bid opening or the time set for the receipt of initial proposals;

(2) In procurements where proposals are requested, alleged improprieties that do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested not later than the next closing time for receipt of proposals following the incorporation;

(3) For protests other than those related to alleged solicitation improprieties, the protest must be filed within seven (7) business days of the time that the protester knew or should have known of the grounds for the protest;

(4) If the protester has requested a post-award debriefing from the FAA, then any protest other than one related to solicitation improprieties shall be filed not later than five (5) business days after the date on which the FAA holds that debriefing.

(b) Protests shall be filed at:

(1) Office of Dispute Resolution for Acquisition, AGC–70, Federal Aviation Administration, 400 7th Street, S.W., Room 8332, Washington, DC 20590, Telephone: (202) 366–6400, Facsimile: (202) 366–7400; or

(2) Other address as shall be published from time to time in the **Federal Register.**

(c) A protest shall be in writing, and set forth:

(1) The protester's name, address, telephone number, and facsimile (FAX) number;

(2) The name, address, telephone number, and FAX number of a person designated by the protester (Protester Designee), and who shall be duly authorized to represent the protester, to be the point of contact;

(3) The SIR number or, if available, the contract number and the name of the CO;

(4) The basis for the protester's status as an interested party;

(5) The facts supporting the timeliness of the protest;

(6) Whether the protester requests a protective order, the material to be protected, and attach a redacted copy of that material;

(7) A detailed statement of both the legal and factual grounds of the protest, and attach one (1) copy of each relevant document;

(8) The remedy or remedies sought by the protester, as set forth in § 17.21;

(9) The signature of the Protester Designee, or another person duly authorized to represent the protester.

(d) If the protester wishes to request a suspension or delay of the procurement and believes there are compelling reasons that, if known to the FAA, would cause the FAA to suspend or delay the procurement because of the protested action, the protester shall:

(1) Set forth each such compelling reason, supply all facts supporting the protester's position, identify each person with knowledge of the facts supporting each compelling reason, and identify all documents that support each compelling reason.

(2) Clearly identify any adverse consequences to the protester, the FAA, or any interested party, should the FAA not suspend or delay the procurement.

(e) At the same time as filing the protest with the ODRA, the protester shall serve a copy of the protest on the CO and any other official designated in the SIR for receipt of protests by means reasonably calculated to be received by the CO on the same day as it is to be received by the ODRA. The protest shall include a signed statement from the protester, certifying to the ODRA the manner of service, date, and time when a copy of the protest was served on the CO and other designated official(s).

(f) Upon receipt of the protest, the CO shall inform the ODRA of the names, addresses, and telephone and facsimile numbers of the awardee and/or other interested parties. The CO shall also immediately notify the awardee and/or interested parties in writing of the existence of the protest. The awardee and/or interested parties shall notify the ODRA in writing, of their interest in participating in the protest as intervenors within two (2) business days of receipt of the CO's notification, and shall, in such notice, designate a person as the point of contact for the ODRA. Such notice may be submitted to the ODRA by facsimile.

(g) The ODRA has discretion to designate the parties who shall participate in the protest as intervenors.

§ 17.17 Initial protest procedures.

(a) When a protest is filed with the ODRA, a DRO will be assigned to the protest.

(b) If the protester requests a suspension or delay of procurement pursuant to § 17.15(d), the Program Office shall submit a response to the request to the ODRA within two (2) business days of receipt of the protest. The ODRA, in its discretion, may recommend such suspension or delay to the Administrator or the Administrator's designee.

(c) The ODRA may convene a status conference to—

(1) Review procedures;

(2) Identify and develop issues related to summary dismissal and suspension recommendations;

(3) Handle issues related to protected information and the issuance of any needed protective order;

(4) Encourage the parties to use ADR;

(5) Conduct early neutral evaluation of the protest by the DRO, at the discretion of the ODRA; and

(6) For any other reason deemed appropriate by the DRO or by the ODRA.

(d) On the fifth business day following a status conference, the parties will file with the ODRA—

(1) A joint statement that they have decided to pursue ADR to resolve the protest; or

(2) A written explanation as to why ADR cannot be used and why the parties will have to resort to the use of the Default Adjudicative Process.

(e) Should the parties elect to utilize ADR to resolve the protest, they will agree upon the neutral to conduct the ADR proceedings (either an ODRA-designated Neutral or a Compensated Neutral of their own choosing) pursuant to § 17.33(c), and shall execute and file with the ODRA a written ADR agreement within five (5) business days after the status conference.

(f) Should the parties indicate at the status conference that ADR will not be used, then within ten (10) business days following the status conference, the Program Office will file with the ODRA a Program Office response to the protest. The Program Office response shall consist of a statement of pertinent facts, applicable legal or other defenses, and shall be accompanied by all documents deemed relevant by the Program Office, position. A copy of the response shall be furnished to the protester at the same time, and by the same means, as it is filed with the ODRA. At that point the protest will proceed under the Default Adjudicative Process pursuant to § 17.37.

(g) The time limitations of this section may be extended by the ODRA for good cause.

§ 17.19 Dismissal or summary decision of protests.

(a) At any time during the protest, any party may request, by motion to the ODRA, that—

(1) The protest, or any count or portion of a protest, be dismissed for lack of jurisdiction, if the protester fails to establish that the protest is timely, or that the protester has no standing to pursue the protest;

(2) The protest, or any count or portion of a protest, be dismissed for failure to state a claim, if the protester fails to state a matter upon which relief may be had;

(3) A summary decision be issued with respect to the protest, or any count or portion of a protest, if:

(i) The undisputed material facts demonstrate a rational basis for the Program Office action or inaction in question, and there are no other material facts in dispute that would overcome a finding of such a rational basis; or

(ii) The undisputed material facts demonstrate, that no rational basis exists for the Program Office action or inaction in question, and there are no material facts in dispute that would overcome a finding of the lack of such a rational basis.

(b) In connection with any request for dismissal or summary decision, the ODRA shall consider any material facts in dispute, in a light most favorable to the party against whom the request is made.

(c) Either upon motion by a party or on its own initiative, the ODRA may, at any time, exercise its discretion to:

(1) Recommend to the Administrator dismissal or the issuance of a summary decision with respect to the entire protest;

(2) Dismiss the entire protest or issue a summary decision with respect to the entire protest, if delegated that authority by the Administrator; or

(3) Dismiss or issue a summary decision with respect to any count or portion of a protest.

(d) A dismissal or summary decision regarding the entire protest by either the Administrator, or the ODRA by delegation, shall be construed as a final agency order. A dismissal or summary decision that does not resolve all counts or portions of a protest shall not constitute a final agency order, unless and until such dismissal or decision is incorporated or otherwise adopted in a decision by the Administrator (or the ODRA, by delegation) regarding the entire protest.

§ 17.21 Protest remedies.

(a) The ODRA may recommend one or more, or a combination of, the following remedies—

(1) Amend the SIR;

(2) Refrain from exercising options under the contract;

(3) Issue a new SIR;

(4) Terminate an existing contract for the FAA's convenience, and require recompetition;

(5) Direct an award to the protester;

(6) Award bid and proposal costs; or

(7) Any combination of the above remedies, or any other action consistent with the AMS that is appropriate under the circumstances.

(b) In determining the appropriate recommendation, the ODRA should consider the circumstances surrounding the procurement or proposed procurement including, but not limited to: the nature of the procurement deficiency; the degree of prejudice to other parties or to the integrity of the procurement system; the good faith of the parties; the extent of performance completed; the cost of any proposed remedy to the FAA; the urgency of the procurement; and the impact of the recommendation on the FAA.

(c) Attorney's fees of a prevailing protester are allowable to the extent permitted by the Equal Access to Justice Act, 5 U.S.C. 504(a)(1)(EAJA).

Subpart C—Contract Disputes

§ 17.23 Dispute resolution process for contract disputes.

(a) All contract disputes arising under contracts entered into pursuant to the AMS shall be resolved under this part.

(b) Contractors shall file contract disputes with the ODRA and the CO pursuant to § 17.25.

(c) After filing the contract dispute, the contractor should seek informal resolution with the CO:

(1) The CO, with the advice of FAA legal counsel, has full discretion to settle contract disputes, except where the matter involves fraud;

(2) The parties shall have up to thirty (30) business days within which to resolve the dispute informally, and may contact the ODRA for assistance in facilitating such a resolution; and

(3) If no informal resolution is achieved during the thirty (30) business day period, the parties shall file a joint statement with the ODRA pursuant to § 17.27.

(d) If informal resolution of the contract dispute appears probable during the informal resolution period, the contractor and the CO may jointly request one extension of time from the ODRA to resolve the matter before filing the joint statement under § 17.27.

(e) The ODRA may hold a status conference with the parties within ten (10) business days after receipt of the joint statement required by § 17.27, in order to establish the procedures to be utilized to resolve the contract dispute.

(f) The FAA will require continued performance in accordance with the provisions of a contract, pending resolution of a contract dispute arising under or related to that contract.

§ 17.25 Filing a contract dispute.

(a) Contract disputes are to be in writing and shall contain:

(1) The contractor's name, address, telephone, and fax number;

(2) The contract number and the name of the Contracting Officer;

(3) A detailed statement of the legal and factual basis of the contract dispute or of each element or count of the contract dispute, including copies of relevant documents;

(4) All information establishing that the contract dispute was timely filed;

(5) A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified; and

(6) The signature of a duly authorized representative of the initiating party.

(b) Contract disputes shall be filed by mail, in person, by overnight delivery or by facsimile at the following address:

(1) Office of Dispute Resolution for Acquisition, AGC–70, Federal Aviation Administration, 400 7th Street, SW., Room 8332, Washington, DC 20590, Telephone: (202) 366–6400, Facsimile: (202) 366–7400; or

(2) Other address as shall be published from time to time in the **Federal Register.**

(c) A contract dispute against the FAA shall be filed with the ODRA within six months of the accrual of the contract dispute. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise may be filed within six months after the accrual of the contract dispute. If the contract underlying provides for time limitations for filing of contract disputes with the ODRA, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, fraud or latent defects.

(d) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

§ 17.27 Submission of joint statement.

(a) If the matter has not been resolved informally, the parties shall file a joint statement with the ODRA no later than thirty (30) business days after the filing of the contract dispute. The ODRA may extend this time for good cause.

(b) The joint statement of the case shall include either—

(1) A request for ADR, and an executed ADR agreement, pursuant to § 17.33(d), specifying which ADR techniques will be employed; or

(2) A written explanation as to why ADR will not be utilized and why the parties must resort to the Default Adjudicative Process.

(c) Such joint statements shall be directed to the following address:

(1) Office of Dispute Resolution for Acquisition, AGC–70, Federal Aviation Administration, 400 7th Street, SW., Room 8332, Washington, DC 20590, Telephone: (202) 366–6400, Facsimile: (202) 366–7400; or

(2) Other address as shall be published from time to time in the **Federal Register.**

§ 17.29 Dismissal or summary decision of contract disputes.

(a) Any party may request, by motion to the ODRA, that a contract dispute be dismissed, or that a count or portion of a contract dispute be stricken, if: (1) It was not timely filed with the ODRA; (2) It was filed by a subcontractor; (3) It fails to state a matter upon which relief may be had; or (4) It involves a matter not subject to the jurisdiction of the ODRA.

(b) In connection with any request for dismissal of a contract dispute, or to strike a count or portion thereof, the ODRA should consider any material facts in dispute in a light most favorable to the party against whom the request for dismissal is made.

(c) At any time, whether pursuant to a motion or request or on its own initiative and at its discretion, the ODRA may—

(1) Dismiss or strike a count or portion of a contract dispute;

(2) Recommend to the Administrator that the entire contract dispute be dismissed; or

(3) With delegation from the Administrator, dismiss the entire contract dispute.

(d) An order of dismissal of the entire contract dispute, issued either by the Administrator or by the ODRA where delegation exists, on the grounds set forth in this section, shall constitute a final agency order. An ODRA order dismissing or striking a count or portion of a contract dispute shall not constitute a final agency order, unless and until such ODRA order is incorporated or otherwise adopted in a decision of the Administrator.

Subpart D—Alternative Dispute Resolution

§ 17.31 Use of alternative dispute resolution.

(a) The ODRA shall encourage the parties to utilize ADR as their primary means to resolve protests and contract disputes.

(b) The parties shall make a good faith effort to employ ADR in every appropriate case. The ODRA will encourage use of ADR techniques such as mediation, neutral evaluation, or minitrials, or variations of these techniques as agreed by the parties and approved by the ODRA.

(c) The Default Adjudicative Process will be used where the parties cannot achieve agreement on the use of ADR; or where ADR has been employed but has not resolved all pending issues in dispute; or when ODRA concludes that ADR will not provide an expeditious means of resolving a particular dispute.

§ 17.33 Election of alternative dispute resolution process.

(a) The ODRA makes its personnel available to serve as Neutrals in ADR proceedings and, upon request by the parties, attempts to make qualified non-FAA personnel available to serve as Neutrals through neutral-sharing programs and other similar arrangements. The parties may elect to employ a mutually acceptable Compensated Neutral, and shall share equally the costs of any such Compensated Neutral.

(b) The parties using an ADR process to resolve a protest shall submit an executed ADR agreement containing the information outlined in paragraph (d) of this section to the ODRA within five (5) business days after the ODRA conducts a status conference pursuant to § 17.17(c). The ODRA may extend this time for good cause.

(c) The parties using an ADR process to resolve a contract dispute shall submit an executed ADR agreement containing the information outlined in paragraph (d) of this section to the ODRA as part of the joint statement specified under § 17.27.

(d) The parties to a protest or contract dispute who use ADR shall agree to submit to the ODRA an ADR agreement setting forth:

(1) The type of ADR technique(s) to be used;

(2) The agreed-upon manner of using the ADR process; and

(3) Whether the parties agree to use a Neutral through the ODRA or to use a Compensated Neutral of their choosing, and, if a Compensated Neutral is to be used, that the cost of the Compensated Neutral's services shall be shared equally.

(e) Non-binding ADR techniques are not mutually exclusive, and may be used in combination if the parties agree that a combination is most appropriate to the dispute. The techniques to be employed must be determined in advance by the parties and shall be expressly described in their ADR agreement. The agreement may provide for the use of any fair and reasonable ADR technique that is designed to achieve a prompt resolution of the matter.

(f) Binding arbitration may be permitted on a case-by-case basis; and shall be subject to the provisions of 5 U.S.C. 575(a), (b), and (c), and applicable law. Arbitration that is binding on the parties, subject to the Administrator's right to approve or disapprove the arbitrator's decision, may also be permitted.

(g) For protests, the ADR process shall be completed within twenty (20) business days from the filing of an executed ADR agreement with the ODRA unless the parties request, and are granted an extension of time from the ODRA.

(h) For contract disputes, the ADR process shall be completed within forty (40) business days from the filing of an executed ADR agreement with the ODRA, unless the parties request, and are granted an extension of time from the ODRA.

(i) The parties shall submit to the ODRA an agreed-upon protective order, if necessary, in accordance with the requirements of § 17.9.

§ 17.35 Selection of neutrals for the alternative dispute resolution (ADR) process.

(a) In connection with the ADR process, the parties may select a Compensated Neutral acceptable to both, or may request the ODRA to provide the services of a DRO or Neutral.

(b) In cases where the parties select a Compensated Neutral who is not familiar with ODRA procedural matters, the parties or Compensated Neutral may request the ODRA for the services of a DRO to advise on such matters.

(c) The ODRA may appoint a DRO to serve as the Neutral for small dollar value and/or simplified acquisitions, unless the parties agree otherwise.

Subpart E—Default Adjudicative Process

§ 17.37 Default adjudicative procedures for protests.

(a) The Default Adjudicative Process for protests will commence on the latter of:

(1) Submission of the Program Office response to the ODRA pursuant to § 17.17(f) ten (10) business days following the status conference held pursuant to § 17.17(c); or

(2) The parties submission of joint written notification to the ODRA that the ADR process has not resolved all outstanding issues, or that the twenty (20) business-day period allotted for ADR for protests has either expired or will expire with no reasonable probability of the parties achieving a resolution.

(b) The Director of the ODRA may select a DRO or a Special Master to conduct fact-finding proceedings and to provide findings and recommendations concerning some or all of the matters in controversy.

(c) The DRO or Special Master may prepare procedural orders for the proceedings as deemed appropriate; and may require additional submissions from the parties.

(d) The DRO or Special Master may convene the parties and/or their representatives, as needed, to pursue the Default Adjudicative Process.

(e) If, in the sole judgment of the DRO or Special Master, the parties have presented written material sufficient to allow the protest to be decided on the record presented, the DRO or Special Master shall have the discretion to decide the protest on that basis.

(f) Discovery may be permitted within the discretion of the DRO or Special Master. The DRO or Special Master shall manage the discovery process, including limiting its length and availability, and shall establish schedules and deadlines for discovery consistent with time frames established in this part.

(g) The DRO or Special Master may permit or request oral presentations, and may limit the presentations to specific witnesses and/or issues.

(h) The Director of the ODRA may review the status of any protest in the Default Adjudicative Process with the DRO or Special Master during the pendency of the process.

(i) Within thirty (30) business days of the commencement of the Default Adjudicative Process, or at the discretion of the ODRA, the DRO or Special Master will submit findings and recommendations for the ODRA that shall contain the following:

(1) Findings of fact;

(2) Application of the principles of the AMS, and any applicable law or authority to the findings of fact;

(3) A recommendation for a final FAA order; and

(4) If appropriate, suggestions for future FAA action.

(j) In the findings and recommendations, the DRO or Special Master shall state whether or not the Program Office actions in question had a rational basis, and whether or not the Program Office decision under question was arbitrary, capricious or an abuse of discretion. Findings of fact underlying the recommendations must be supported by substantial evidence.

(k) The DRO or Special Master, where appropriate, has broad discretion to recommend a remedy that is consistent with § 17.21.

(l) A DRO or Special Master shall submit findings and recommendations only to the Associate Chief Counsel and Director of the ODRA. The findings and recommendations will be released to the parties, subject to any protective order, upon issuance of the Administrator's final order in the case.

(m) The FAA Administrator or the Administrator's delegee issues the final agency decision.

§ 17.39 Default adjudicative process procedures for contract disputes.

(a) The Default Adjudicative Process for contract disputes will commence on the latter of:

(1) The parties' submission to the ODRA of a joint statement pursuant to § 17.27 which indicates that ADR will not be utilized; or

(2) The parties' submission to the ODRA of joint notification that the parties have not settled some or all of the dispute issues, and it is unlikely that they can do so within the time period allotted and/or any reasonable extension.

(b) Within twenty (20) business days of the commencement of the Default Adjudicative Process, the Program Office shall prepare and submit to the ODRA, with a copy to the contractor, a chronologically arranged and indexed Dispute File, containing all documents which are relevant to the facts and issues in dispute. The contractor will be entitled to supplement such a Dispute File with additional documents.

(c) The Director of the ODRA shall assign a DRO or a Special Master to conduct fact-finding proceedings and provide findings and recommendations concerning the issues in dispute.

(d) The Director of the ODRA may delegate discretion to the DRO or Special Master to conduct a Status Conference within ten (10) business days of the commencement of the Default Adjudicative Process, and, within the scope of the delegation, either at such a conference, or at any time during the Default Adjudicative Process, to issue such orders or decisions as are considered necessary in the discretion of the DRO or Special Master to promote the efficient resolution of the contract dispute.

(e) At any such Status Conference, or as necessary during the Default Adjudicative Process, the DRO or Special Master will:

(1) Determine the minimum amount of discovery required to resolve the dispute;

(2) Review the need for a protective order, and if one is needed, prepare a protective order pursuant to § 17.9;

(3) Determine whether any issue can be stricken; and

(4) Prepare necessary procedural orders for the proceedings.

(f) At a time or at times determined by the DRO or Special Master, and in advance of the decision of the case, the parties shall make final submissions to the ODRA and to the DRO or Special Master, which submissions shall include the following:

(1) A joint statement of the issues;

(2) A joint statement of undisputed facts related to each issue;

(3) Separate statements of dispute facts related to each issue, with appropriate citations to documents in the Dispute File, to pages of transcripts of any hearing or deposition, or to any affidavit or exhibit which a party may wish to submit with its statement;

(4) Separate legal analyses in support of the parties' respective positions on disputed issues.

(g) Each party shall serve a copy of its final submission on the other party by means reasonably calculated so that such submission is received by the other party on the same date it is received by the ODRA.

(h) The DRO or Special Master may decide the contract dispute on the basis of the submissions referenced in this section and the record, or may, in the DRO or Special Master's discretion, allow the parties to make additional presentations at a hearing, and/or in writing.

(i) The DRO or Special Master shall prepare findings and recommendations within thirty (30) business days from receipt of the final submissions of the parties, unless that time is extended by the ODRA for good cause. The findings and recommendations shall contain findings of fact, application of the principles of the AMS and other law or authority applicable to the findings of fact, a recommendation for a final FAA order, and, if appropriate, suggestions for future FAA action.

(j) As a part of the findings and recommendations, the DRO or Special Master shall review the disputed issue or issues in the context of the contract, any applicable law and the AMS. Any finding of fact set forth in the findings and recommendations must be supported by substantial evidence.

(k) A DRO or Special Master's findings and recommendations shall be submitted only to the Director of the ODRA, and shall be released to the parties upon issuance of the final agency order for the contract dispute.

(l) The FAA Administrator or the Administrator's delegee issues the final agency order on the contract dispute.

(m) Attorneys' fees of a qualified, prevailing contractor are allowable to the extent permitted by the EAJA, 5 U.S.C. 504(a)(1). If required by contract or applicable law, the FAA will pay interest on the amount found due the contractor, if any.

Subpart F—Finality and Review

§ 17.41 Final orders.

A final FAA order is issued by the FAA Administrator or by a delegee of the Administrator. The order would be issued only when the offeror, potential offeror, or contractor exhausts its administrative remedies under, this FAA dispute resolution process.

§ 17.43 Judicial review.

(a) A protester or contractor may seek review of a final FAA order in the manner otherwise prescribed by law.

(b) A copy of the petition for review shall be filed with the ODRA and the Program Office attorney on the date that the petition for review is filed with the appropriate circuit court of appeals.

Appendix A to Part 17—Alternative Dispute Resolution (ADR)

A. The FAA dispute resolution procedures encourage the parties to protests and contract disputes to use ADR as the primary means to resolve protests and contract disputes, pursuant to the Administrative Dispute Resolution Act of 1996, Pub. L. 104–320, 5 U.S.C. 570–579, and Department of Transportation and FAA policies to utilize ADR to the maximum extent practicable. Under the procedures presented in this part 17, the ODRA would encourage parties to consider ADR techniques such as case evaluation, mediation, or arbitration.

B. ADR encompasses a number of processes and techniques for resolving protests or contract disputes. The most commonly used types include:

(1) *Mediation.* The Neutral or Compensated Neutral ascertains the needs and interests of both parties and facilitates discussions between or among the parties and an

amicable resolution of their differences, seeking approaches to bridge the gaps between the parties' respective positions. The Neutral or Compensated Neutral can meet with the parties separately, conduct joint meetings with the parties' representatives, or employ both methods in appropriate cases.

(2) *Neutral Evaluation.* At any stage during the ADR process, as the parties may agree, the Neutral or Compensated Neutral will provide a candid assessment and opinion of the strengths and weaknesses of the parties' positions as to the facts and law, so as to facilitate further discussion and resolution.

(3) *Minitrial.* The minitrial resembles adjudication, but is less formal. It is used to provide an efficient process for airing and resolving more complex, fact-intensive disputes. The parties select principal representatives who should be senior officials of their respective organizations, having authority to negotiate a complete settlement. It is preferable that the principals be individuals who were not directly involved in the events leading to the dispute and who, thus, may be able to maintain a degree of impartiality during the proceeding. In order to maintain such impartiality, the principals typically serve as "judges" over the mini-trial proceeding together with the Neutral or Compensated Neutral. The proceeding is aimed at informing the principal representatives and the Neutral or Compensated Neutral of the underlying bases of the parties' positions. Each party is given the opportunity and responsibility to present its position. The presentations may be made through the parties' counsel and/or through some limited testimony of fact witnesses or experts, which may be subject to cross-examination or rebuttal. Normally, witnesses are not sworn in and transcripts are not made of the proceedings. Similarly, rules of evidence are not directly applicable, though it is recommended that the Neutral or Compensated Neutral be provided authority by the parties' ADR agreement to exclude evidence which is not relevant to the issues in dispute, for efficiency in the proceeding expeditiously. Frequently, minitrials are followed either by direct one-on-one negotiations by the parties' principals or by meetings between the Neutral/Compensated Neutral and the parties' principals, at which the Neutral/Compensated Neutral may offer his or her views on the parties' positions (i.e., Neutral Evaluation) and/or facilitate negotiations and ultimate resolution via Mediation.

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James W. Whitlow,

Deputy Chief Counsel.

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H.R. 3824/P.L. 105–234

Amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft. (Aug. 14, 1998; 112 Stat. 1536)

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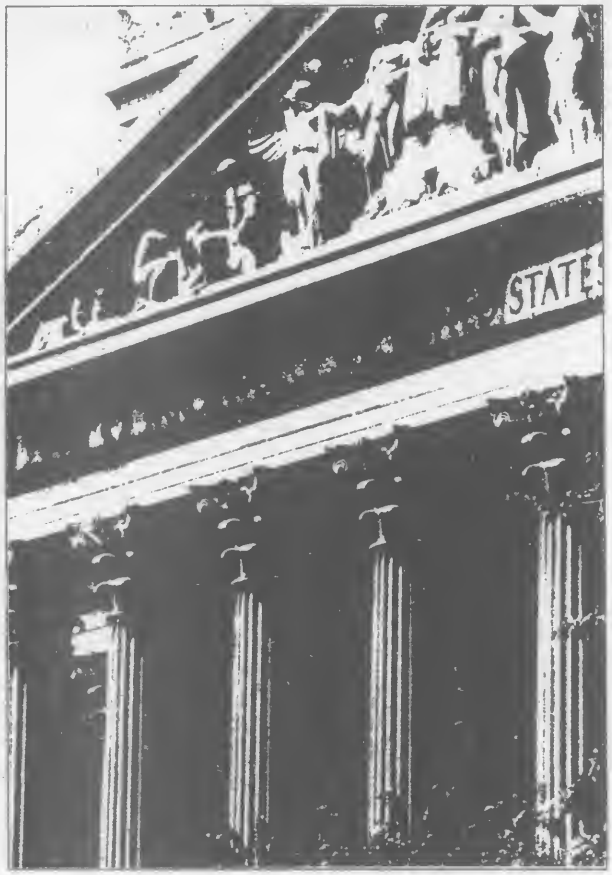

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